



Appeal Decision

Site visit made on 21 February 2023

by M Clowes BA (hons) MCD PG CERT (Arch Con) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 February 2023

Appeal Ref: APP/B2355/D/22/3310288

4 Peel Drive, Bacup OL13 9PU

- 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 Peter Gledhill against the decision of Rossendale Borough Council.
 - The application Ref 2022/0390, dated 29 July 2022, was refused by notice dated 25 October 2022.
 - The development proposed is a two storey rear and side extension.
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Decision

1. The appeal is allowed and planning permission is granted for a two storey rear and side extension at 4 Peel Drive, Bacup, OL13 9PU in accordance with the terms of the application, Ref 2022/0390, dated 29 July 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 shall be carried out in accordance with the following approved plans;
 - Site location plan
 - Proposed plans and elevations drawing number PG-18-07-22-A
 - 3) The materials to be used in the construction of the external surfaces of the development hereby approved shall match those used on the existing dwelling.

Preliminary Matters

2. New information relating to the personal circumstances of the occupants of the appeal property was supplied post registration of the appeal. The Council has raised concerns that this information was not available during the determination of the planning application. Be that as it may, as it has been drawn to my attention, I am required to have regard to the Rights of the Child¹. The Council was given the opportunity to comment, and it is considered in this instance, that no party would be prejudiced by my acceptance of the additional information. I will return to this matter later in my decision.

¹ Article 8(1) of the European Convention on Human Rights as enshrined in the Human Rights Act 1998 and Article 3(1) of the United Nations Convention.

3. An interested party has pointed out a discrepancy between the suggested depth of the proposed rear extension within the design and access statement and the extension as shown on the submitted plans. For clarity, I have determined the appeal on the basis of the submitted plans.

Main Issues

4. The main issues of this appeal are the effect of the proposed development upon i) the character and appearance of the area and ii) the living conditions of the occupants of 6 Peel Drive, with particular regard to outlook and light.

Reasons

Character and Appearance

5. The appeal site encompasses a 2-storey end of terrace dwelling located within a residential area. Dwellings are predominantly arranged in terraces with space to each side of the terrace enabling views through to the hills beyond. This feature contributes positively to the spaciousness of the street scene, enabling the suburban location to be appreciated.
6. The Alterations and Extensions to Residential Properties SPD 2008 (SPD) advises that extensions should reflect the design, detail and proportions of the original building. A rear conservatory would be removed, and the proposed 2-storey rear extension would wrap around to the side, leaving a gap to provide access around the dwelling. The proposed 2-storey side extension due to its very narrow footprint and height, would appear awkward and poorly related to the host dwelling. A lean-to roof at 2-storey in height would not respect the existing roof forms of the host dwelling, and the pitch would not reflect that of the 2-storey front gable projection. The absence of a first floor window in the front elevation would further present a high wall to window ratio which does not reflect the proportions of the existing front elevation. As such, the form and detailed design of the proposed side extension would not respect that of the host dwelling, nor existing development within the wider street scene.
7. The harm would however be moderate, given that the proposed extension would be deeply recessed from the front elevation. The impact would largely only be perceived immediately outside of the appeal site as you enter Peel Drive from Onchan Drive. Whilst the proposed extension would be relatively sizeable it is not particularly disproportionate to the size of the host dwelling, nor would it be perceived to be so, in public views from Peel Drive.
8. Public vantage points to the south are limited to glimpsed views uphill between the existing linked detached properties on Douglas Road, such that the proposed rear extension would not be particularly discernible in public views.
9. Whilst I have not found harm from the rear extension, the proposed side extension would adversely affect the character and appearance of the area. It would therefore conflict with Policies HS9 and ENV1 of the Rossendale Local Plan 2021 (RLP). These policies seek to ensure that extensions respect the existing house and surrounding buildings in terms of, amongst other things, siting, scale, design and fenestration, objectives shared with the SPD. It would also conflict with paragraph 130 of the National Planning Policy Framework (the Framework) which requires new development to be visually sympathetic to the surrounding built environment.

Living Conditions

10. The SPD states that where there is a party wall, extensions that project more than 1m from the original rear wall should not encroach beyond a 45° angle taken from the boundary at the 1m point. The Council suggest that the 45° angle would be breached due to the depth of the proposed rear extension, and that an undue impact would be exerted on the occupants of No 6 Peel Drive. However, the impact is not quantified.
11. Although the appellant suggests that the proposed extension does not intercept the 45° angle, it appears to have been incorrectly applied from the centre point of the neighbouring ground floor window of No 6, rather than the boundary. When measured as per the direction of the SPD, it seems to me, that only the rear corner of the proposed extension would intercept the 45° angle. As a result, there would only be a minor breach of the 45° angle test set out in the SPD. The SPD is guidance and therefore, it is important to look at the impact of the specific proposal and the context of the appeal site.
12. The existing rear conservatory is sited close to the boundary with No 6 that is formed by a low hit and miss fence. The replacement extension although 2-storey in height would be sited further away from this boundary. The proposed position of the extension would therefore open up and result in an improvement to the outlook afforded to the rear ground floor kitchen window of No 6. This improvement needs to be balanced against any possible minor loss of light indicated by the 45° angle test in the SPD.
13. The first floor bedroom window of this neighbouring property is relatively wide and sited centrally within the rear elevation such that it is separated from the boundary with the appeal site. It has an open aspect looking over the houses below on Douglas Road and towards the hills in the middle distance. The proposed rear extension being set off the boundary to the side, would not therefore appear dominant when viewed from this window. The outlook from this window would largely be unaffected as a result.
14. The rear elevation of both the appeal property and its neighbour at No 6 face due south, such that the existing rear windows of No 6 receive a good proportion of ambient daylight and also direct sunlight. Due to the siting of the proposed extension to the east of No 6 and being 2-storey in height, the amount of very early morning sunlight received by the kitchen window may be reduced. However, the set back from the boundary with No 6 and the set down of the gabled roof would help to minimise any impact, such that the sunlight afforded to the neighbouring occupants would not be harmfully impacted. Likewise, daylight would not be impacted to a harmful degree given the proposed position of the rear extension away from the boundary with No 6 to the east.
15. Notwithstanding the lack of compliance with the guidance set out in the SPD, for the above site specific reasons, the proposed development would not result in a harmful effect upon the living conditions of the occupiers of No 6, with particular regard to outlook and light. The proposal would comply with Policies ENV1 and HS9 of the RLP which seek to prevent an unacceptable adverse impact on the amenity of neighbouring properties.

Other Matters

16. Article 8(1) of the European Convention on Human Rights as enshrined in the Human Rights Act 1998, states that everyone has the right to respect for his private and family life and his home. Where Article 8(1) rights are those of children, as in this case, they must also be seen in the context of Article 3(1) of the United Nations Convention on the Rights of the Child. This requires a child's best interests to be a primary consideration. No other consideration, including the impact on the character and appearance of the area, is more important.
16. Information has been advanced relating to the personal circumstances of 2 children that occupy the appeal site and to which I have had careful regard, including a statement from Lancashire County Council (LCC) relating to the children's backgrounds and specific needs, including their sleeping arrangements and the benefits of the proposed extension. I have no reason to doubt this. The proposal would provide much needed extra accommodation that would improve living conditions and address the long-term needs of the children. This would ensure their emotional and educational stability and therefore, allowing the appeal would be in their best interests.
17. The appellant failed to make a pre-application enquiry but there is no obligation to do so, although it is likely to have been helpful in identifying possible matters of concern at an early stage.
18. Alternative schemes for the proposed extension have not been presented by either party. Whilst the Council suggest that a fourth bedroom could be provided in an alternative form, there is no evidence that this would be feasible or would result in a significantly improved impact on the character and appearance of the host dwelling and wider area. The particular circumstances of the occupants are that first floor bedrooms are required, necessitating a 2-storey extension.
19. The proposed development goes beyond the provision of an extra bedroom and includes additional ground floor living space, a WC, utility as well as an en-suite and store at first floor level. However, the existing dwelling is modest in size, particularly at first floor level where 2 of the existing bedrooms are relatively compact. It is also served by only 1 bathroom. It would not therefore be unreasonable for an extension to provide other facilities in addition to a bedroom, such as an additional toilet or bathroom for a 4 person household. The proposed scheme does not seek a particularly excessive level of accommodation.
20. The proposed extension would improve living conditions and enable the children to stay in their current home which offers a secure and stable family environment. The merits of the case as presented, are such that I afford significant weight to the benefits of this development in respect of the best interests of the children.

Planning Balance

21. I have found that the proposed development would not overall adversely affect the living conditions of the occupants of No 6. However, it would result in moderate harm to the character and appearance of the host dwelling and the wider area. This would be contrary to the development plan. Balanced against this, the proposal would meet the best interests of 2 children. Consequently, in

this instance, the best interests of the children outweigh its adverse impacts. This indicates that the proposal should be determined otherwise than in accordance with the development plan.

Conditions

22. I have considered the Council's suggested conditions in accordance with the Planning Practice Guidance and paragraph 56 of the Framework. Along with the standard time limit, conditions are imposed to require the use of matching materials in the interests of consistency of appearance, and to list the plans in the interests of certainty.

Conclusion

23. I conclude that the proposed development would be contrary to the development plan but in this instance, there are other considerations which outweigh this finding. Accordingly, for the above reasons, the appeal is allowed.

M Clowes

INSPECTOR