



Appeal Decision

Site visit made on 1 February 2023

by David English BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 March 2023

Appeal Ref: APP/Z4310/D/22/3309025

22 Countisbury Drive, Liverpool L16 0JJ

- 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 Shaun Molloy against the decision of Liverpool City Council.
 - The application Ref 22H/1353, dated 27 April 2022, was refused by notice dated 15 August 2022.
 - The development proposed is a two-storey side and rear extension, single storey front and rear extension, and loft conversion with rear dormer.
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Decision

1. The appeal is allowed, and planning permission is granted for a two-storey side and rear extension, single storey front and rear extension, and loft conversion with rear dormer at 22 Countisbury Drive, Liverpool L16 0JJ in accordance with the terms of the application, Ref 22H/1353, dated 13 May 2022, subject to the following conditions:
 - 1) The development hereby permitted shall begin no 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 plans: FLOOR PLANS (1 of 3) dated April '22; ELEVATIONS & 2ND FLOOR (2 of 3) Rev A dated April '22; and (3 of 3) Rev A dated April '22.
 - 3) 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.

Preliminary Matters

2. The Council modified the description of development and I have no evidence confirming the appellant's agreement to this change. The description I have used in the banner heading above is the same as that given in the planning application and this adequately describes the proposal.

Main Issues

3. The Council does not object to the ground floor elements of the proposal and following my site visit I see no reason to disagree. Therefore, the main issue is the effect of the proposed first-floor side and rear extensions on the living conditions of the occupiers of 20 and 24 Countisbury Drive with particular reference to their outlook, daylight and sunlight.

Reasons

4. The appeal property comprises a detached house set back a short distance from the highway to the front, and having a large, long rear garden. The houses either side are similar in these respects.
5. The first-floor rear wall of No 20 projects a short distance beyond the rear main wall of the appeal property. A single storey extension to the rear of No 20 has glazed doors that open onto a paved patio. The proposed first-floor extensions to the side of the appeal property would project almost to the common boundary with No 20, and the first-floor rear extensions would project 3 metres beyond the existing rear wall of the appeal property. No 20 is set in a short distance from the common boundary with the appeal site. As a result of the general arrangement of buildings, and the separation that would exist between the proposed first-floor extension and the house, rear garden, and patio area of No 20, I am satisfied that the proposal would not have an unacceptable effect on the outlook from any room within No 20 or from its gardens and patio area.
6. The rear walls of the appeal property and No 24 are generally aligned. A reasonable distance separates the existing side wall of the appeal property and the side wall of No 24, and the proposal would be positioned no closer to No 24 than the current arrangement. No 24 has a glazed conservatory extension at the rear which projects around 3 metres into the rear garden. This is set in slightly further from the common boundary with No 22 than the main side wall of that house. Having regard to the arrangement of the buildings and the distance that would separate the proposed first-floor extension and the house and gardens of No 24, I am satisfied that the proposal would not have an unacceptable effect on the outlook from any room within No 24 or from its gardens.
7. Both neighbouring houses have obscure glazed windows in their side walls facing towards the appeal site. Those windows provide either a secondary source of light or they do not serve habitable rooms. Accordingly, I find that no unacceptable harm would arise to living conditions in those rooms as a result of the proposal.
8. The rear elevations of the appeal property and the neighbouring houses either side face almost due west. Sunlight reaching the rear of No 20 will be limited to some extent in the early part of the day already due to the size of No 22 and the relative positions of the houses, and there is a degree of overshadowing currently. The proposal would result in some change in the amount of sunlight reaching the rear garden and the rooflights located in the single-storey rear extension to No 20. There will also be some limited additional overshadowing as a result of the size of the proposal. However, having regard to the separation that would exist between the proposed first-floor extension and the side and rear walls of No 20, and recognising the limited period early in the day within which these effects would arise due to the relative orientation of properties, the effects would not be unacceptably harmful.
9. No 24 is situated to the south of the appeal property. The proposals would not result in any change to sunlight reaching that house or its gardens. Having regard to the distances between neighbouring houses and the proposed first-floor extension, the relative position of windows to habitable rooms in the rear elevations of neighbouring houses, and the size and aspect of their rear

gardens, the proposals would not lead to any significant loss of light to habitable rooms in either neighbouring house.

10. I have been provided with the Council's Supplementary Planning Guidance Note 1 on House Extensions (the SPG) which the Council indicate is still in use despite its age and association with the older Liverpool Unitary Development Plan. The SPG notes that two-storey side extensions to detached houses will be dealt with on their merits, taking into account the spacing between existing properties. It also provides guidance about two-storey rear extensions, but this is not explicitly directed towards proposals for extensions to detached houses, only that *'Two storey extensions away from the party boundary should have a maximum projection of 3m and be at least 3m from the party boundary if the adjoining property has not been extended at ground floor level'*. The SPG then advises that *'...particular account will be taken of the proximity of adjoining dwellings first floor windows and the potential detriment to residential amenity through overshadowing or creating a poor outlook'*. While No 24 does not adjoin neighbouring dwellings, a term that I would understand as requiring buildings to be attached, I have had regard to the spirit of the SPG in respect of the effects of the proposal on neighbours living conditions, and I have determined the appeal in accordance with the relevant more recent development plan policy.
11. I conclude that the proposed first-floor side and rear extensions would not cause unacceptable harm to the living conditions of the occupiers of 20 and 24 Countisbury Drive with particular reference to their outlook, daylight and sunlight. Accordingly, the proposal would not conflict with Policy H8 of the Liverpool Local Plan 2013 – 2033 (January 2022) (the Local Plan) which, amongst other matters, requires house extensions not to cause a significant reduction in the living conditions of the occupiers of neighbouring properties, including by loss of light, overshadowing or by being an overbearing or over-dominant form of development. The proposal would also generally conform with the SPG which requires the same outcomes.

Other Matters

12. I have had regard to those matters raised in the representation objecting to the proposal. These include: the loss of trees which it is claimed would exacerbate a loss of privacy; the creation of light pollution through the glazed lanterns in the flat-roofed single-storey rear extension; the effects on the character an appearance of the area due to the size and design of the extensions; the potential of creating a precedent which would result in other similar development; the devaluation of neighbouring properties; the potential for damage to arise to neighbouring property during construction; and future maintenance difficulties associated with access to the walls, roof and gutters of the proposal which would be on or very close to a common boundary.
13. I saw that a tree had been felled and some vegetation had been removed along the boundary with No 20. However, the presence of trees and shrubs along that boundary would have no bearing on the conclusions I have reached in respect of the main issues. The design of the proposed extensions would have no significant effect on light pollution, it differs little from the current arrangement of rooflights in nearby dwellings, and the design of the single-storey extensions are not a matter in dispute between the main parties.

14. Obvious separation between buildings to either side of the appeal property would remain if the proposed extensions were built. The scale of development is in keeping with the size of the host property and its associated garden and I saw that other houses in the street had been extended to the sides and rear in a similar fashion. I do not consider the proposal would conflict with Policy H8 of the Local Plan or the SPG in respect of its effect on the character and appearance of the host property or the area. This is also the view reached by the Council as explained in their Case Officer Report. This is not a matter in dispute between the main parties and, since I find the proposal acceptable in these regards, it would not set an undesirable precedent.
15. Planning is concerned with land use in the public interest and the Planning Practice Guidance confirms that the impact of development on the value of neighbouring property is not a material consideration. This is therefore not a matter to which I can have regard.
16. Provisions exist in other legislation to govern access to neighbouring property in respect of the construction of development and property maintenance. These are matters to be resolved between the relevant parties and do not have a bearing on my decision. While I recognise the concerns expressed by a neighbour about the potential for damage to arise to their property during construction, I have no substantive evidence the construction of the appeal proposal would be likely to result in such damage, and this matter does not weigh against my decision to allow the appeal.
17. Representations have also been made by a neighbouring resident to the effect that their rights under Article 1 of the First Protocol and Article 8 as set out in Schedule 1 of the Human Rights Act 1998 would be violated in respect of their privacy if the appeal were allowed. However, whilst the representations are anonymous and I therefore cannot be certain which neighbour has submitted this claim, from what I saw during my site visit I am satisfied that the inclusion of windows in the rear elevation of the proposed extensions, including in the proposed dormer, would allow only oblique views towards neighbouring properties to either side of the appeal site, and only very distant views to properties to the rear. The proposed development would not result in any neighbouring property being overlooked to the extent that unacceptable harm to living conditions in respect of privacy would arise. The development would not conflict with Policy H8 of the Local Plan or guidance in the SPG in this respect. I am therefore satisfied that a grant of planning permission would not unacceptably interfere with neighbouring residents' right to the peaceful enjoyment of all their possessions and the right to a private and family life and home. It is therefore proportionate in the circumstances to allow the appeal.

Conditions

18. I have had regard to the conditions suggested by the Council which are largely the same as those I have imposed. The conditions I have imposed are necessary in the interests of certainty to ensure commencement within statutory time limits, to specify the plans approved, and to ensure the character and appearance of the area is not harmed by the materials used in the development.

Conclusion

19. For the reasons given above, having had regard to the development plan as a whole, along with all other relevant material considerations, I conclude that the appeal should be allowed.

David English

INSPECTOR