



Appeal Decision

Site visit made on 23 March 2023

by F Wilkinson BSc (Hons), MRTPI

an Inspector appointed by the Secretary of State

Decision date: 05 April 2023

Appeal Ref: APP/W3005/W/22/3310180

87 Outram Street, Sutton in Ashfield, Nottinghamshire NG17 4BG

- 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 S Mahseredjian of ARL Property Management Ltd against the decision of Ashfield District Council.
 - The application Ref V/2022/0654, dated 28 August 2022, was refused by notice dated 26 October 2022.
 - The development is described on the application form as '*retain of sixth flat created within the roof space at second floor level*'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development in the banner heading is taken from the planning application form. The description on the Council's decision notice and the appeal form is '*flat within roof space at second floor level*'. The development has been completed.
3. In 2018 planning permission was granted at the appeal property for the extension to an existing shop to form a three-storey building with two-storey extension to rear and change of use in order to form six flats¹ (the 2018 permission). There is no dispute between the two main parties that this development has not been constructed in accordance with the approved plans. Notable differences relate to fenestration, architectural detailing and the height of the two-storey rear extension, which is where the additional flat that is the subject of this appeal is located.
4. Based on what I saw at my site visit, it appears that the front elevation of the three-storey building which fronts onto Outram Street now reflects more closely the approved plans in terms of window sizes and architectural detailing. The rear extension as built does not align with the approved plans for the 2018 permission. Differences include smaller windows in the rear elevation and higher ridge and eaves heights.
5. The Council's evidence sets out that the ridge height shown on the plans approved as part of the 2018 permission is around 7.97 metres, the eaves height is approximately 5.7 metres and there is a floor to ceiling height in the roof space of approximately 1.93 metres. Based on the Council's evidence, the plans submitted for the appeal scheme depict a ridge height of approximately

¹ Permission reference V/2018/0329

8.4 metres, an eaves height of about 6.38 metres and a floor to ceiling height in the roof space of about 2.45 metres.

6. The appeal proposal would not have been capable of being fully constructed if the rear extension had been built in accordance with the approved plans for the 2018 permission. Indeed, there would have been inadequate head room within the roof space to achieve acceptable habitable space. On the evidence before me, this does not appear to be a matter in dispute between the two main parties.
7. The description of development on both the planning application form and decision notice is narrow, relating only to a flat in the roof space. However, the development that is the subject of this appeal has to be considered as part and parcel of the roof alteration that has taken place, as described above. This is because without this, it would not have been possible to accommodate acceptable habitable living space. In other words, when considering a proposal for a new flat it is necessary that it is assessed on the basis of how it would relate to the building as a whole including its roof.
8. I acknowledge that the description of development does not specifically refer to a proposed roof alteration. Nevertheless, in considering the planning merits of the proposal, it is necessary that I consider whether it would be acceptable in terms of the resultant roof alteration as shown on the submitted plans. The Council raises some concern about determining the appeal in this way on the basis that members of the public may have thought that the proposal did not directly relate to roof alterations. It is noteworthy, however, that the Council has considered the roof alteration as part of its assessment of the proposal. Furthermore, there would, in any event, be no prejudice caused to members of the public from a public consultation point of view given my decision to dismiss this appeal.

Main Issue

9. The main issue is the effect of the development on the character and appearance of the area.

Reasons

Character and Appearance

10. Enabling the development of a flat in the roof space of the rear extension requires a specific roof shape and height as shown on the plans submitted for the appeal proposal. The resulting eaves and ridge height gives the rear extension a large bulk which has a dominating effect on the host property.
11. On the side elevation, the roof shape and height results in a large and incongruous gap between the windows at first floor level and the eaves. This gives the side elevation a very unbalanced and top-heavy appearance.
12. The two rooflights that have been installed are not harmful. However, the additional window in the rear elevation at roof height, while similar to those at lower levels in the rear extension, lacks architectural subtlety.
13. There appears to be some doubt as to whether what has been built matches the plans submitted for the appeal proposal. The appellant sets out that the ridge height as built is around 8.1 metres as opposed to 8.4 metres stated by

the Council. In either case, to suitably provide a flat in the roof space requires a roof shape and height that results in a dominating rear extension with an unbalanced form.

14. Although views are generally limited from the surrounding area, the roof shape and height are clearly visible from the lane that runs to the rear of Outram Street in the vicinity of the property and from neighbouring properties to the rear.
15. I therefore conclude that while the development is acceptable internally, it nonetheless causes material harm to the character and appearance of the area in terms of the roof alterations. Consequently, the development as a whole conflicts with Policy HG8(b) of the adopted 2002 Ashfield Local Plan Review (the Local Plan) which permits the development of flats where its design is acceptable in terms of appearance, scale and siting. There would also be conflict with the design objectives in chapter 12 of the National Planning Policy Framework 2021 (the Framework) and the guidance in the 2019 Guide for Converting Shops to Residential Supplementary Planning Document.

Other Considerations

16. As the Council cannot demonstrate a five-year supply of deliverable housing sites, footnote 8 of the Framework is therefore relevant, and the 'presumption in favour of sustainable development' at paragraph 11d) of the Framework is engaged.
17. I have found that the appeal proposal as a whole causes material harm to the character and appearance of the area. This harm would be long lasting. I therefore attach substantial weight to it, having regard to paragraph 130 of the Framework.
18. The Framework also emphasises the importance of delivery of housing. The development makes a positive contribution to the supply of housing in an area with an acknowledged housing supply shortfall, and in a location that is near to a range of services and facilities. However, given that the development is for one flat, this benefit would be limited and as such I afford it limited weight in the planning balance. There would also be limited social and economic benefits from additional residents supporting local shops, businesses and community facilities.
19. The Framework supports development that makes efficient use of land. However, this needs to take into account the desirability of maintaining an area's prevailing character. This would not be the case with the development, based on the harm I have identified.
20. With the above in mind, I find that the adverse impacts of granting a planning permission for the development would significantly and demonstrably outweigh its benefits when assessed against the policies in the Framework taken as a whole. Therefore, it would not constitute a sustainable form of development.

Other Matters

21. The appellant has noted that there were no objections to the appeal proposal. However, the absence of an objection does not in itself render the scheme acceptable.

22. The appellant contends that no harm is caused to the living conditions of neighbouring occupiers. While this may be the case, a lack of harm in other respects is effectively neutral in the planning balance.

Conclusion

23. The development conflicts with the development plan taken as a whole as well as the Framework. There are no material considerations that indicate the decision should be made other than in accordance with the development plan and the Framework policies taken as a whole. Therefore, for the reasons given, I conclude that the appeal should be dismissed.

F Wilkinson

INSPECTOR