The Planning Inspectorate

Appeal Decision

Site visit made on 1 February 2023

by K Williams MTCP (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 May 2023

Appeal Ref: APP/M4510/D/22/3310250
29 Mayfield Road, Gosforth, Newcastle Upon Tyne, NE3 4HE

- 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 Andrew McNally (Mr and Mrs Andrew and Joy McNally) against the decision of Newcastle Upon Tyne City Council.
- The application Ref 2022/1536/01/HOU, dated 6 September 2022, was refused by notice dated 27 October 2022.
- The development is proposed rear staircase from ground level in rear yard to first floor level, proposed new rear access door at first floor level in rear elevation and the creation of balcony / terrace at first floor level above existing single-storey rear extension with balustrade screening.

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:

- the effect of the proposed development on the character and appearance of the host dwelling and area; and
- the effect of the proposed development on the living conditions of the occupiers of the neighbouring properties with particular regard to privacy, and outlook.

Reasons

Character and appearance

3. The host building at 29 Mayfield Road is a terraced property. It is located towards the end of the row of terraces near the junction with North Avenue. The area is predominantly residential, consisting of similar rows of terraces, with modest rear outside spaces predominantly enclosed by brick boundary walls. There is a back lane which also serves the rear of the terraces on Broomfield Road. Mayfield Road terraces contain gabled outriggers at the rear, whereas the properties on Broomfield Road have flat roof outriggers and some include external stepped access to first floors.

4. The host row of terraces appeared to retain a largely unaltered appearance, presenting an attractive consistent row of outriggers constructed from brick. Although it was clear that properties had been extended at ground floor at the rear, these did not disrupt the pattern of the rear of the buildings at first floor. Thus, the host terrace presented a unified appearance which positively contributes to the character and appearance of the back lane.

5. I recognise that the opposing terraces fronting Broomfield Road have numerous external steps, and there are a variety of rear additions on both terraces. However, the introduction of a glazed balustrade with the ability for a number of people to sit or stand and socialise at a raised level would be clearly visible from the back lane, North Avenue and surrounding properties. To my mind, this would be at odds with the character of the surrounding area and how it currently functions.

6. Whilst I accept that a glazed balustrade would be of a lightweight and more contemporary appearance, it is not innovative. The proposed balcony would be prominent when the site is viewed from the back lane and from North Avenue. Given the contrasting materials, the first-floor level, its elevated position on an open and relatively exposed area would thus render it an incongruous and conspicuous addition to the property.

7. Although the character of areas change over time, it is appropriate for development to include characteristics of local distinctiveness. In this regard, the proposed balcony would depart from the established appearance on the rear of the terraces on Mayfield Road by introducing a rectangular shaped balcony which projects to its site boundary. Such features are not replicated on other properties, and in this instance would detract from the overall unified character. Notwithstanding that its scale is modest, it would be seen in the broad context of the traditional and consistent character of the back lane.

8. For the above reasons I therefore conclude the proposed balcony extension would harm the character and appearance of the host property and surrounding area. Consequently, it would be contrary to Policy CS15 of the Core Strategy and Urban Core Plan for Gateshead and Newcastle upon Tyne 2010–2030 (the Core Strategy) and Policies DM20 and DM23 of the Newcastle upon Tyne Development and Allocations Plan 2015-2030 (DAP). Combined and insofar as they are relevant to the appeal these seek to require the design of development to respond positively to local distinctiveness.

Living conditions

9. The properties referred in the Council's reason for refusal at No 5 North Avenue and No's 49, 51, 53, and 55 Broomfield Road are opposite the appeal site. These properties have rear windows and small rear yards separated at ground floor by the brick boundary wall and narrow back lane. On my site visit I saw that there is already a degree of existing mutual overlooking.

10. However, the proposal would introduce a new elevated and projecting vantage point close to the rear boundary of the appeal property. This would afford its users a much wider field of vision closer than the existing windows at a relatively close distance to the above properties and their windows across the back lane.

11. Although I have not been made aware of any separation distances, the width of the back lane is limited, and the balcony would be up to the site boundary. As a consequence, the balcony would lead to an increased and unacceptable level of overlooking of neighbouring gardens and into windows to the detriment of the living conditions of the occupants. Although the appellant may be willing to change the height of the glazed balustrade, I have considered the appeal based on the scheme that is before me, and as considered by the Council following public consultation.

12. Whilst the Council also contend the proposal would harm outlook, there is no substantive evidence that it would. The physical elements would be sited sufficiently far away from neighbouring boundaries to not feel enclosing. However, although I have found the proposal would not harm outlook, and the UK weather would likely not result in use all the time, this does not outweigh the harm arising from loss of privacy when it would be in use.

13. The proposal would therefore harm the living conditions of No 5 North Road, and No's 49, 51, 53 and 55 Broomfield Road. The proposal would therefore be contrary to Policy DM23 of the DAP, which seeks to protect residential living conditions.

Other Matters

14. I have carefully considered the reasons given for why the appellant has applied for planning permission for the balcony. This includes spending more time at home with a growing family, home working and enabling the appellants to remain close to family and friends without additional expense of moving, the orientation of the rear garden to the sun and the ability to obtain more fresh air. Such personal benefits are not a justification for setting aside the harm that the proposal would cause.

15. The proposal would not affect the public realm, nor are there any highway or parking, or ecology considerations. These are neutral matters and do not outweigh the conflict with the development plan.

16. The Framework acknowledges that small-scale developments on existing sites can make an important contribution to meeting the housing requirement. However, the appellant contends that there would be benefits from the contribution to the mix and supply within the housing market, as well as economic benefits resulting from the construction period, and reduction in pollution and traffic congestion from not commuting, purported benefits of keeping inflation down and reducing green field development by building in an existing urban area. However, the scale of the proposal is small and thus the benefits would be limited and would not outweigh the harm identified above.

17. The appeal property is not a listed building or within a conservation area. Although materials could be conditioned, I do not consider that this would overcome the above concerns in relation to the character of the area. In addition, even though the proposal is small scale, and the National Planning Policy Framework 2021 (the Framework) now refers to upward extensions, this is where it would be consistent with the prevailing character of the area. As such its compliance with other guidance within the framework does not negate the requirement for it to fulfil the well-established aims of protecting the character and appearance of the area set out in the Council's policies and at paragraph 130 of the Framework.

18. I have been provided with a lawful development certificate for a proposed dormer window with Juliet balcony on Mayfield Road. I have not been provided with the details of its appearance. That proposal was considered under Section 192 of the Town and Country Planning Act, which require a different set of considerations. In any event to the description appears to be significantly different to the appeal proposal. Therefore, a clearly defined fallback position has not been provided. Although it is noted the appellant has liaised with their neighbours, the absence of objection is not sufficient to grant permission. I am

also aware that it is not known where interested parties who commented on the application reside. Notwithstanding the above matters, I have assessed the appeal scheme on its own merits and found that harm would arise from it in relation to the main issues.

19. The guidance in the Framework is a material consideration. However, Planning law[1] requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.

Conclusion

20. For the reasons given, having considered the development plan as a whole, along with all other relevant material considerations, I conclude that the appeal should be dismissed.

K Williams

INSPECTOR

[1] Section 38(6) of Planning and Compulsory Purchase Act 2004 and s70(2) of Town and Country Planning Act 1990