



Appeal Decision

Site visit made on 28 March 2023

by C Dillon BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23rd June 2023

Appeal Ref: APP/M4320/D/22/3308137

9 Birch Green, Formby, Liverpool L37 1NG

- 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 D Sixsmith against the decision of Sefton Metropolitan Borough Council.
 - The application Ref DC/2021/02292, dated 20 September 2021, was refused by notice dated 27 July 2022.
 - The development proposed is the erection of a first-floor extension over the existing garage to the side of the dwelling house.
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Decision

1. The appeal is allowed, and planning permission is granted for the erection of a first-floor extension over the existing garage to the side of the dwelling house at 9 Birch Green, Liverpool L37 1NG in accordance with the terms of the application, Ref DC/2021/02292, dated 20 September 2021, and the plans submitted with it, subject to the following conditions:
 1. The development hereby permitted shall begin no later than three years from the date of this decision.
 2. The development hereby permitted shall be carried out in accordance with the approved plans Ref: Location Plan, Proposed 1st Floor Plan (Rev A), Proposed Front West Elevation (Rev A), Proposed Rear (East) Elevation (Rev A), Proposed Roof Plan (Rev A), Combined Site and Block Plan (Rev A) and Proposed Side Elevation (Rev A).
 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.
 4. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no windows/dormer windows shall be constructed on the side elevation of the extension hereby approved.

Main Issue

2. The main issue is the effect of the appeal proposal on the existing living conditions of the occupiers of No 7 Birch Green, with particular regard to outlook.

Reasons

3. The appeal property is located within the well-established 'Primarily Residential' part of Formby as defined by the Sefton Local Plan ("the Local Plan"). This area is characterised by a mixture of 2 storey houses and bungalows, some of which have previously been extended. Properties in this part of Birch Green are 2 storey detached houses, set back from the street within generous plots.
4. Neighbouring No 7 Birch Green has a large dormer in its roof plane facing the appeal site. This has been evidenced as being part of a side extension to that property. This dormer contains a couple of first floor bedroom windows. The existing outlook from both of these bedroom windows is directly onto the 2-storey brick wall and roof slope which forms the side elevation of No 9. The Council has calculated the existing intervening distance between these, and the first floor of the appeal property is around 8 metres. Consequently, the direct outlook from this part of No 7 is already heavily compromised. However, oblique views of No 9's garden areas and the properties beyond can be captured from these windows and provide some visual relief.
5. The appeal property has a ground floor flat roofed side extension which runs up to and along the boundary with No 7. The appeal proposal is a first-floor bedroom and en-suite addition above the front section of that extension. It would extend back to a mid-way point on that existing side elevation, with windows to the front and rear only. The proposed extension would incorporate a hipped roof at a right angle to and lower than the main roof of the house. The main parties have calculated that the intervening distance between the side elevations of Nos 7 and 9 would be reduced to approximately 3.7 metres.
6. The existing intervening separation distance falls short of the 12-metre distance specified in the Council's current House Extensions Supplementary Planning Document ("the SPD"). The appellant has provided other examples of where even lesser intervening distances exist in the locality. However, it is unclear whether these examples predate the current local policy framework. Furthermore, both Policy HC10 and the SPD rely on a site-specific assessment to be made of the effects of the particular proposal. Hence, I give no weight to these examples.
7. Following the erection of the appeal proposal, the direct outlook of the forward most dormer bedroom window of No 7 would remain as a brick wall and roof slope, albeit at a closer distance to that which exists currently. Crucially, the outlook from the rearward side dormer window would remain unchanged because of the offset position with the appeal proposal. Furthermore, the potential for oblique views towards the front and rear gardens of No 9 would remain.
8. Consequently, the level of change which would be experienced would be slight and not unduly overbearing in comparison to the existing situation. Furthermore, in line with paragraph 2.6 of the SPD, the appellant's evidence demonstrates that no unreasonable degree of further shadowing of No 7 would occur throughout the year. Moreover, subject to a planning condition to control the insertion of any windows in the proposed side elevation, existing levels of privacy between the 2 properties would not be reduced.

9. Overall, the proposed change to the existing level of outlook from these 2 existing dormer windows would not represent a significant reduction in the existing living conditions of the occupants of No 7.
10. Therefore, the appeal proposal would not harm the existing living conditions of the occupiers of No 7 Birch Green, with particular regard to outlook.
11. The SPD states that extensions that do not meet the 12-metre separation distance will only be permitted in exceptional circumstances. Paragraph 1.18 of the SPD confirms that the dimensions stated in it are guidance. At paragraph 2.4 the SPD states that there should be no significant reduction in living conditions of neighbouring properties. In view of the insignificant level of change which would occur, the particular appeal proposal does not conflict with the intent of this guidance to safeguard living conditions.
12. Policy HC4 of the Local Plan requires extensions and alterations are designed so that there will be no significant reduction in the living conditions of the occupiers of neighbouring properties. Amongst other things, it states that extensions must not result in a loss of outlook from main windows of neighbouring habitable rooms, cause a significant loss of privacy or light, or cause overshadowing or overbearing effects for neighbours. Given the proposed level of change that would arise, there is no conflict with this policy. Moreover, there are no other matters before me that indicate that the proposal conflicts with the development plan when taken as a whole.

Conditions

13. In the context of the tests set out in paragraph 56 of the Framework, in addition to the standard time limit condition, a condition specifying the approved plans would be necessary for the avoidance of doubt and in the interests of certainty. A condition requiring the use of matching materials would be necessary in the interests of attaining an acceptable appearance. A condition would also be necessary to control the insertion of any windows in the side elevation of the appeal proposal in the interests of safeguarding existing privacy levels.

Conclusion

14. For the reasons given above, subject to the above conditions I conclude that the appeal should be allowed.

C Dillon

INSPECTOR