



Appeal Decision

Site visit made on 4 July 2023

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

an Inspector appointed by the Secretary of State

Decision date: 17th July 2023

Appeal Ref: APP/U4230/D/23/3321773

64 Half Edge Lane, Salford, Eccles M30 9BA

- 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 Ben Walsh against the decision of Salford City Council.
 - The application Ref 22/80306/HH, dated 29 July 2022, was refused by notice dated 17 March 2023.
 - The development proposed is ground floor rear extension and porch extension. Loft dormer and raised roof ridge height.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The scheme before me includes a front porch and fencing within the front garden of the appeal site. The reason for refusal specifically refers to the impact of the proposed extensions and alterations to the rear of the property and the overdevelopment of the plot, on the living conditions of neighbouring residents, rather than the character and appearance of the area. As such, I have confined my decision to the assessment of the extensions to the rear of the dwelling but including for completeness, the proposal for a dual pitched roof to the existing 2-storey side extension. Likewise, the assessment regarding overdevelopment is confined to the impact of the proposed extensions on the outlook of neighbouring occupiers.

Main Issue

3. The main issue of this appeal is the effect of the proposed development upon the living conditions of neighbouring occupiers, with particular regard to loss of light and outlook.

Reasons

Loss of Light

4. The appeal property is set forward of and to the west of the front elevation of the neighbouring dwelling at No 66 Half Edge Lane. Due to its position, it would not serve to restrict direct sunlight to the windows within the front elevation of No 66, nor significantly affect ambient daylight given their orientation to face north.
5. The western elevation of No 66 contains 2 first floor side windows. The smaller window closest to the front elevation of the property, due to its orientation and despite being obscurely glazed, provides an important source of afternoon sunlight for the room it serves. Whilst there is a larger window within the front elevation of the dwelling serving the same room, it faces directly north and thus does not receive any direct sunlight.

6. Due to the proximity, height and solid form of the proposed first floor side/rear extension including the large dormer addition to the roof above, the entirety of the side facing window would be obstructed, removing the majority of sunlight it currently receives. The Council does not consider this room to be habitable, but the reasons for this are not explained. The occupier of No 66 advises that the room is used for working, with a desk sited under the window. As it is clearly a space where the occupant can spend extended periods of time, in my view it is a habitable room. The occupier of No 66 would experience a substantial loss of sunlight to their study as a result of this element of the proposal, creating inferior and gloomier living conditions.
7. The proposed first floor side/rear extension would not appear to extend in front of the larger first floor side window such that the sunlight it experiences would not be reduced. Even if it did extend in front, the window is understood to serve a W/C which is not considered to be a habitable room.
8. The existing rear conservatory would be replaced by a single-storey flat roofed addition that would extend across the entirety of the rear elevation of the appeal dwelling. With no ground floor windows on the flank elevation of No 66 and the proposed extension being set off the boundary, no loss of light would occur to this property as a result of this element of the proposal.
9. The proposed rear extension whilst single storey would have a high eaves height, be of a greater scale and a more solid construction than the existing conservatory, and would protrude considerably higher than the existing boundary fence. It would be in proximity to a ground floor window in the rear elevation of No 62 Half Edge Lane. From the evidence before me and my visit, I have been unable to determine the type of room this window serves. The officer report does not appear to consider the impact of the rear extension on this window or explain the reasons for not doing so.
10. Due to the height of the proposed single-storey extension and its position to the east of No 62, it has the potential to affect morning sunlight afforded to this adjacent window. In the absence of any substantive evidence to the contrary, for example the provision of a daylight and sunlight assessment, I cannot be certain that the amount of sunlight received by the window would not be reduced to an unacceptable degree.
11. The proposed dormer window, due to its height and position to the east of No 62, may result in a loss of early morning sunlight to the first-floor side window of this neighbouring property. However, this window appears to serve a bathroom and is obscurely glazed. As a non-habitable room any reduction in sunlight would not adversely affect the living conditions of the existing occupiers.
12. Given the position of the appeal site to the north of the dwellings on Preston Avenue and the intervening separation distance, no loss of light would occur to the habitable rooms or rear gardens of these neighbouring dwellings.

Outlook

13. The outlook from the front elevation of No 66 is already compromised and enclosed by the height, proximity and forward position of the flank wall of the 2-storey side extension at the appeal property. Whilst the addition of a gabled roof would increase the bulk of the existing flat roofed extension, it would do so above eaves level, such that its overall effect would be minimal, compared to that already exerted by the existing elevation. Moreover, the nearest first floor

window within No 66 is obscurely glazed and does not benefit from any existing outlook. Likewise, the ground floor kitchen window is already enclosed by the existing conifer hedge and the flank wall of the extension beyond.

14. The presence of the proposed first floor side/rear extension would be noted from inside the narrow first floor window in the flank elevation of No 66. However, given that the window is obscurely glazed, the room does not currently benefit from an open and unimpeded outlook. Furthermore, although this extension would enclose the pathway to the side of the host dwelling and No 66, it would do so for only a short distance due to the offset position of the dwellings. The pathway provides a means of access rather than useable garden space and would remain unobstructed on completion of the development.
15. Although the proposed single storey rear extension would replace the existing conservatory, it would be considerably higher and project further without a chamfer at the corner, such that it would result in a more enclosing impact on the outlook afforded to the adjacent rear ground floor window of No 62. Again, without being able to determine the type of room this window serves, I cannot be certain that such an enclosing effect would not be harmful to the living conditions of the occupiers of No 62 in respect of outlook, whether or not it is a typical scale of extension.
16. The proposed dormer window would be of a significant rather than de minimis size and scale, extending the full width and height of the roof which is also to be increased in height. Very little of the roof structure would be visible, having the effect of creating a full third floor at the rear of the dwelling. Whilst undoubtedly large, the proposed dormer would be set sufficiently away from neighbouring residents such that it would be viewed at some distance beyond the rear gardens, so as not to appear unduly overbearing. Likewise, being on the existing roof slope, the dormer structure would not affect the outlook afforded to the habitable windows of No 62 and No 66 to either side.

Conclusion – Living Conditions

17. The proposed development would result in a loss of sunlight to the side facing window of No 66 from the proposed first floor rear extension, dual pitched roof above the existing 2-storey side extension and the rear dormer. In the absence of any evidence to the contrary, the proposed conservatory would also result in a loss of sunlight to the nearest neighbouring window belonging to No 62. Whilst the dormer window and first floor rear extension would not adversely affect outlook, the proposed single storey rear extension would have an enclosing effect on the outlook afforded to the rear ground floor window of No 62.
18. Overall, I find that the proposed development would be harmful to the living conditions of neighbouring occupiers with particular regard to loss of light and outlook. Therefore, conflict is found with Policy D5 of the Salford Local Plan; Development Management Policies and Designations 2023 (SLP) which amongst other things, seeks to ensure that new development does not have an unacceptable impact on the amenity of the users of other building and spaces. It would also conflict with paragraph 130 of the National Planning Policy Framework (the Framework) which requires new development to have a high standard of amenity for existing users.

Other Matters

19. There is no evidence before me to demonstrate that the proposed dormer extension which is part and parcel of the operation to increase the ridge height of the roof, could be erected without planning permission. Even if a dormer extension could be added to the property under permitted development rights, it would be required to not exceed the height of the highest part of the existing roof. Consequently, any fallback position would be different and the degree of harm less than the proposal before me.
20. I am referred to developments at 31 Blindloss Avenue and 4 Crawley Avenue that have achieved favourable decisions by the Council. Be that as it may, no substantive evidence of these permissions has been supplied such that I can make a comparison. Regardless, the recent adoption of the SLP and the Framework in 2021 will have resulted in a different planning policy context to the planning decision made in 2018 for No 31. An application for a certificate of existing lawful development requires a judgement as to whether a development is lawful. In this regard, it is a different type of assessment than is required for a planning application and thus the circumstances of the decision at No 4 vary to the present context. I do not consider these developments to offer support to the proposal before me.
21. Reference is made to the presumption in favour of sustainable development, specifically paragraph 11c of the Framework. The Framework is clear that this presumption, does not change the statutory status of the development plan as the starting point for decision making. Where a proposal conflicts with an up-to-date development plan, permission should not usually be granted unless material considerations indicate that the plan should not be followed. As the *Wavendon Properties Ltd v SSHCLG and Milton Keynes Council* [2019] EWHC 1524 (Admin) judgement directs, I find the SLP, specifically Policy D5 is up to date, having only recently been adopted. I have found that the appeal proposal conflicts with the development plan.
22. I do not doubt that the proposed development would be of benefit to the Appellant through the provision of additional living space, that it would provide employment for local builders and utilise sustainably sourced materials. Whether or not the appeal dwelling is detached and sited within a good-sized plot does not justify permitting extensions that would have an adverse effect upon the living conditions of neighbouring occupiers. These matters do not lead me to determine the appeal, otherwise than in accordance with the development plan.
23. The lack of harm with regard to waste, pollution or effect of biodiversity and lack of objections from statutory consultees are neutral in the planning balance weighing neither for, nor against the proposal. The planning officer recommended approval of the proposal. However, I have come to my own judgement based on the evidence before me and my observations, for the reasons given above.

Conclusion

24. There are no considerations that would warrant taking a decision otherwise than in accordance with the development plan when considered as a whole. I conclude that the appeal should be dismissed.

M Clowes - INSPECTOR