
Appeal Decision

Site visit made on 22 August 2023

by Darren Hendley BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4 September 2023

Appeal Ref: APP/A4710/D/23/3325958
52 Heath Lea, Halifax, Calderdale HX1 2DA

- 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 Sherif Sharaf, SLS Architects Ltd against the decision of Calderdale Metropolitan Borough Council.
 - The application Ref: 23/00382/HSE, dated 5 April 2023, was refused by notice dated 10 July 2023.
 - The development proposed is described as "to provide a second storey bedrooms accommodation over the already approved ground floor kitchen extension - Previously approved reference 20/01482/HSE."
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The appellant details in the banner heading above are taken from the planning application form. Details that were provided with the appeal included a different appellant name. However, the appeal form now provides the same named appellant as is found on the application form. I am thus satisfied that the appeal can proceed.
3. The description of development in the banner heading is also taken from the application form. The Council gave the proposal a more precise description of a first floor extension. Neither of the main parties has provided written confirmation that a revised description of development has been agreed. Nevertheless, both descriptions reflect that the ground floor of the proposal has already received planning permission¹ by way of a rear single storey extension. That permission also included the conversion of the garage into a bedroom. Hence, I have considered the appeal on this basis.

Main Issues

4. The main issues are the effect of the proposed extension on (i) the living conditions of the occupiers of the neighbouring residential properties, in particular 50,54 and 56 Heath Lea (Nos 50,54, and 56) by way of outlook, visual impact, privacy and light; and (ii) the character and appearance of the property and the area.

¹ Council ref: 20/01482/HSE

Reasons

Living Conditions

5. The appeal property consists of a detached 2 storey house. To the rear, building works are underway at ground floor level which it is understood relates to the existing permission. As a consequence, the rear garden is now of a moderate length. Beyond the hedge on the rear boundary is the rear garden of No 56. The site also bounds Nos 54 and 50 on either side. No 54 is at a noticeably lower level and the associated house is set slightly further back compared to the original dwelling on the appeal site. The shared boundary is for the most part defined by a hedge. No 50 is at a higher level than the appeal property and there is more substantial vegetation along this boundary.
6. The proposed extension would project across the entirety of the rear elevation and so it would be located close to the side boundaries. In respect of No 54, it would be a dominant feature due to the proximity, its length and as it would be well above the hedge. Such an overbearing effect would be exacerbated by the difference in levels between the two properties because this would result in the proposed extension being viewed in a raised position from this neighbouring property. The effect on its visual impact and outlook would thus be significantly diminished.
7. The proposed extension would contain bedroom windows in its rear elevation that would directly overlook the rear boundary and so into No 56's rear garden. There would be no great distance from these windows to the boundary and accordingly there would be a distinct loss of privacy when this garden would be in use. Due to the length that the proposed extension would project out, the windows would not be in a similar position to the existing rear bedroom windows because they would be considerably closer to the boundary.
8. Such proposed bedroom windows would have to be clear glazed in order to provide satisfactory living conditions for their occupiers. Hence, it is not the case that the overlooking that would occur could be adequately mitigated, including through obscure glazing. Nor is the appeal process to be used to evolve a proposal. An appeal falls to be decided on what was before the local planning authority at the time of its decision.
9. As No 50 is at a higher level and with the more substantial boundary enclosure, an overbearing effect on that property would not result from the proposed extension. Undue overshadowing would also not arise due to the direction of light and the resultant relationship with neighbouring properties. None of these matters though address the harm to the living conditions that I have identified to the occupiers of Nos 54 and 56. While neighbouring properties did not object to the planning application, the effect on living conditions is a planning matter and is in dispute between the appellant and the Council. It is therefore to be considered in my decision.
10. I conclude that the proposed extension would have an unacceptable effect on the living conditions of the occupiers of Nos 54 and 56 by way of outlook, visual impact and privacy. As such, it would not comply in this regard with Policy BT2 of the Council's Calderdale Local Plan 2018/19 – 2032/33 (2023) (Local Plan) where it sets out that proposals should not result in a significant adverse impact on the privacy and private amenity space of adjacent residents, amongst other matters. It would not have an unacceptable effect on the living

conditions of the occupiers of No 50 and nor by way of light. It would therefore comply with Policy BT2 in these respects.

Character and Appearance

11. The appeal property is found on a fairly uniform modern housing development that is set out in a planned layout. The house extends across much of its plot and so there is limited visibility of the rear from the site frontage. There is greater visibility from where Heath Lea extends around the side of No 54 where the rear of the appeal property is visible in a raised position, albeit set back by No 54's own rear garden and the boundary enclosure.
12. While the proposed extension would undoubtedly be a large addition, its scale and proportion would be adequately mitigated in relation to the host dwelling. It would be set down in height from the roof ridge and the proposed roof would angle back from the side elevation walls so as to lessen its massing. Hence, it would appear as a subservient addition.
13. The degree to which the proposed extension would be visible from Heath Lea would be ameliorated by in particular the distance that it would be set back from the streetscene in this direction, even accounting for the gradient of the landscape. The likely visibility from the site frontage itself would only be slight.
14. The Council's Planning Officer Report also raises concerns with regard to landscape impact and Policy GN4 of the Local Plan, although it is not contained within the related reason for refusal. The effect on the landscape character area would not be unacceptable with the positioning of the proposed extension at the rear and as it would be erected at first floor level above an extension that already has permission. Similarly, there would not be a particular conflict with the National Design Guide in this regard. Overall, there would not be an undue adverse impact in character terms.
15. I conclude that the proposal would not have an unacceptable effect on the character and appearance of the area. As a result, it would comply with Policy BT1 of the Local Plan where it concerns high quality inclusive design and aesthetics, where new development should respect or enhance the character and appearance of existing buildings and surroundings, taking account of its local context and distinctiveness, amidst other considerations.

Other Matters

16. I am not unsympathetic as regards the reasons for wanting to extend the property. However, irrespective of my decision, a bedroom would be created by way of the converted garage and the number of first floor bedrooms would not increase under the proposal. The appellant's circumstances do not therefore outweigh the harm that would occur.
17. I have also been referred to a number of other approved extensions in the area. While the appellant considers that they are no bigger than the proposed extension, based on the information that has been provided and from what I could observe on my site visit, how they relate to neighbouring properties varies considerably from what is for my consideration. I noted the proximity of 58 Heath Lea's existing extension to No 56, but the original house as built was already in proximity to this rear garden boundary and that extension has simply continued that arrangement. I am thus satisfied that the circumstances are sufficiently different so as not to alter my conclusion.

18. I note comments about the application of Local Plan policies. The proposed extension is however to be considered against the policies of the development plan as the planning system operates on the basis of a plan-led approach. Matters have also been raised concerning how the Council dealt with the planning application. This is not though for me to comment on in the context of the appeal, as this depends on my consideration of the effects of the proposal itself.

Conclusion

19. Whilst I consider that the proposed extension would not be unacceptable with regard to the effect on the living conditions of No 50, by way of light, and concerning character and appearance matters, the effect on the living conditions of the occupiers of Nos 54 and 56 would be unacceptable and is decisive. Accordingly, I conclude that the appeal should be dismissed.

Darren Hendley

INSPECTOR