



Appeal Decision

Site visit made on 15 August 2023

by K Jones BA (Hons) DipLA CMLI

an Inspector appointed by the Secretary of State

Decision date: 21 September 2023

Appeal Ref: APP/Y1110/D/23/3324589

3 Third Avenue, Heavitree, Exeter, Devon EX1 2PJ

- 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 and Mrs Clark and Goodrick against the decision of Exeter City Council.
 - The application Ref 23/0362/FUL, dated 14 March 2023, was refused by notice dated 2 June 2023.
 - The development proposed is a rear extension and adjoining, partial replacement, side extension.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Council have set out that all submitted plans were used in the decision making process except for the '45 degree rule diagram' (22.141.Clark.06PP) as it incorrectly identifies the nearest habitable room on the ground floor. In addition, I note that it incorrectly shows the boundary wall with No 1 Third Avenue set back from the appeal proposals. I have therefore taken the same approach as the Council and disregarded this plan for the purposes of this appeal.

Main Issues

3. The main issues are:
 - The effect of the proposals on the character and appearance of the host property and the surrounding area; and
 - The effect on living conditions of neighbouring occupiers at 1 Third Avenue, with particular regard to natural light and outlook.

Reasons

Character and appearance

4. Third Avenue comprises a series of short terraces of red bricked two-storey houses. Many of the properties have some form of single-storey rear extension, with a number retaining their original small brick store to the rear. The existing rear extensions are varied in appearance, but are consistently lean-to or flat roofed in form. They also display consistency in materials with the host property and the local palette of brick walls and slate roofs. A small number of more recent rear extensions are rendered, with painted render

detailing also present to the front bay projections of many of the properties. Whilst not designated in its own right or as part of a wider area, the property makes a positive contribution to the character of its surroundings, maintaining the consistent appearance and form of the houses, and the relationship between the terraced properties.

5. The proposed development would introduce a large asymmetric single-pitched roof form to the rear extension, and a smaller inverse pitched roof to the side extension. Both proposed roof pitches would sit at right angles to the existing roof line, relating poorly to the host property, and conflicting with the prevailing roof pattern of the surrounding properties and their extensions. The use of metal and timber cladding on the large rear extension would also be incongruous with the otherwise consistent palette of materials in this context. During my site visit I saw a small number of minor building elements constructed or clad in varied modern materials, however these have largely preserved the character and appearance of the area due to their small scale and ancillary nature.
6. The main wall of the rear extension would be a considerable height in relation to comparable extensions nearby, and the uncharacteristic roofline and materials would make it an unduly prominent and incongruous feature. Whilst views of the development would be limited from the public realm on Third Avenue, the upper part of the rear extension would be visible from the public realm on First Avenue. There is also considerable intervisibility between front and rear elevations of neighbouring properties and their gardens.
7. The appellants consider that the form and materials of the proposals are appropriate as part of a high quality and innovative design solution. Whilst there is support for contemporary and innovative design in national policy and design guidance, paragraph 134 of the National Planning Policy Framework (the Framework) maintains that such innovative designs must fit in with the overall form and layout of their surroundings. Moreover, paragraph 130 seeks to ensure that development is sympathetic to local character and maintains a strong sense of place.
8. I therefore consider that the proposed development would harm the character and appearance of the host property and the surrounding area. This would conflict with Policy DG1 of the Exeter Local Plan (the Local Plan) and Policy CP17 of the Exeter Core Strategy where they seek to ensure that the height, massing, and materiality of new development relates well to its surroundings. The proposals would also fail to meet a number of General Principles of the Householder's Guide to Extension Design Supplementary Planning Document (SPD), including Principles 6 & 8 which state that roofs of extensions should match the main roof in terms of shape and pitch, and that external materials should match the original house.
9. The appeal site benefits from a lawful development certificate issued following the refusal of the proposed development. This shows that single-storey rear and side extensions of a similar form and slightly increased height could be built under permitted development rights (the fallback scheme). Given the presence of the lawful development certificate and the clear intention of the appellants to bring forward a development of this nature, I consider it highly likely that the fallback scheme would be implemented if the current appeal is

dismissed. As such, I have given this fallback position considerable weight in my overall assessment.

10. Despite the slight increase in height, the fallback scheme would be comparatively less harmful to the character and appearance of the area as a result of the use of matching locally appropriate materials across the proposed extensions. I therefore do not consider the appeal proposals to be of a material benefit against the effects of the fallback scheme. Consequently, despite the significant weight afforded to the fallback position, it does not alter my conclusion in respect of character and appearance.

Living Conditions

11. No 1 Third Avenue is sited at a lower ground level than the appeal site, with the stepped terrace of properties following the sloping topography of the area. On its rear elevation, No 1 has one ground floor kitchen window and a set of patio doors opening onto the garden area, which form the only source of natural light for the dining room. The existing boundary wall of the appeal site is in close proximity to the dining room doors and, particularly when experienced from the lower ground level of No 1's garden, is a sizable feature. It was clear from my site visit that the rear elevation of No 1 already experiences some overshadowing from this wall during the afternoon, and that the existing wall has a significant enclosing effect on the outlook from the dining room doors.
12. Whilst the proposed development would reduce the length of the existing wall, the proposed increase in height of around a metre would be significant at close proximity, and would noticeably worsen the wall's enclosing effect. The tall blank wall would create a dominant feature with an overbearing presence on the outlook of both the back garden and dining room of No 1. There is no technical analysis before me on the effects of the proposals on levels of daylight or sunlight, however I consider that the increased wall height would also result in an undue reduction of natural light reaching the dining room.
13. For these reasons, I conclude that the proposed development would have a harmful effect upon the living conditions of the occupiers of the neighbouring residential property at No 1, with particular regard to outlook and natural light. The proposal is therefore contrary to Policy DG4 of the Local Plan and Principle 3 of the SPD which require development to, amongst other things, ensure a quality of living conditions which allows residents to feel at ease within their homes and gardens, and not adversely affect the natural light and outlook enjoyed by neighbours.
14. The appellants advance that the appeal scheme would provide a modest but notable betterment over the fallback scheme due to its reduced height. The fallback would be marginally more harmful to the living conditions of occupiers at No 1, with the boundary wall sitting 0.2m higher against the neighbouring boundary. Even though there would be a limited increase in that harm from the fallback scheme, the overall effect on the living conditions of the neighbour would be very similar.
15. Whilst the fallback position carries significant weight, the degree of difference in the impact would be very limited and therefore does not weigh substantially in favour of the appeal scheme. In addition, the consistent use of materials on the fallback scheme is likely to present a more cohesive and sensitive elevation

to the neighbour when viewed from their garden, again moderating the marginal benefit achieved from the slightly lower height of the appeal scheme. Therefore on balance, the fallback position does not alter my conclusion in respect of living conditions.

Other Matters

16. The appellants have set out additional benefits of the appeal scheme over the fallback scheme in respect of improved internal functionality, and further note that the proposals would future-proof the property for their use. These would be personal benefits which carry, at best, only very limited positive weight. Moreover, I do not consider that the appeal proposals or the fallback scheme are the only way to deliver these benefits.
17. A further fallback position has been put forward by the appellants that a two-storey rear elevation could also be built under permitted development rights. Whilst it may be the case that a scheme of this nature could come forward in the future, there are no plans or other information before me suggesting that the appellants intend to develop the site in this way, nor is there a lawful development certificate confirming that this would be permitted development. I therefore afford limited weight to this consideration.
18. I note the appellants' comment that they consider that both the development plan and accompanying SPD have been superseded by the more recent Framework. There is no evidence before me to indicate that a decision should be made other than in accordance with the development plan, and in any event I have found conflict with the aims of the Framework. This has not therefore altered my overall decision.

Conclusion

19. For the reasons given above I find that the development would conflict with the development plan when read as a whole. There are no material considerations, including the fallback positions, that have been shown to outweigh that conflict or indicate a decision otherwise than in accordance with the development plan. Accordingly, I conclude that the appeal should be dismissed.

K Jones

INSPECTOR