



Appeal Decision

Site visit made on 16 January 2024

by A Berry MTCP (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 January 2024

Appeal Ref: APP/W3005/W/23/3328697

87 Outram Street, Sutton in Ashfield, Nottinghamshire NG17 4BG

- 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 S Mahseredjian of ARL Property Management Ltd against the decision of Ashfield District Council.
 - The application Ref V/2023/0394, dated 3 July 2023, was refused by notice dated 25 August 2023.
 - The development proposed is described as “flat within roofspace at second floor level”.
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Decision

1. The appeal is allowed and planning permission is granted for a flat within the roofspace at second floor level at 87 Outram Street, Sutton in Ashfield, Nottinghamshire NG17 4BG in accordance with the terms of the application, Ref V/2023/0394, dated 3 July 2023, and subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 01.01 – Location Plan, 02.01 – Proposed and Existing Block Plans, 02.02 – Proposed Floor Plans, 02.03 – Proposed Elevations, and 02.04 – Building Section A-A.
 - 3) The external surfaces of the development hereby permitted shall be constructed in the materials shown on drawing 02.03 – Proposed Elevations.

Background and Procedural Matters

2. In 2018, planning permission¹ was granted at the appeal property for the extension and conversion of an existing shop to form six flats (‘the 2018 permission’). Subsequently, the development was not constructed in accordance with the 2018 permission and an appeal² was dismissed for the retention/construction of a flat within the as-built roof of the rear extension. Based on the information before me and what I witnessed on site, works have taken place since the previous appeal was dismissed to rectify the breach, including a reduction in the height of the rear extension.
3. The Council asserts that there is a discrepancy with the submitted plans in that when measured, the two-storey rear extension does not scale to the annotated dimensions. The appellant has confirmed that the extension as constructed

¹ Planning Ref V/2018/0329

² APP/W3005/W/22/3310180

conforms to the dimensions annotated on the drawings. I have therefore determined the appeal on the basis of the drawing's annotations.

4. The description of development relates solely to the construction of a flat within the second floor roofspace. However, to achieve the proposed development, the internal floor levels within the extension have been reduced from the 2018 permission. While this in itself would not require planning permission, the information before me suggests that it has resulted in changes to the positioning of the approved fenestration. I have therefore considered these retrospective changes as part of the appeal proposal. These changes are depicted on the submitted drawings and correspond with what has been constructed on site. Therefore, I do not consider that a third party would be prejudiced by their inclusion in my assessment.
5. Since the appeal was lodged, a revised National Planning Policy Framework ('the Framework') has been published. This has not raised any new matters which are determinative to the outcome of this appeal.

Main Issue

6. The main issue is the effect of the proposed development on the character and appearance of the surrounding area.

Reasons

7. The appeal site comprises a three-storey mid-terrace property with a two-storey rear extension consisting of six flats. It is located within a Local Shopping Centre (Outram Street) that comprises a mix of residential and commercial uses. It is proposed to construct a flat roofed dormer to the northwest roof slope of the two-storey rear extension and convert the resulting space into a self-contained flat.
8. The buildings forming the terrace along this side of Outram Street differ in height and design, creating a varied appearance and roofscape. To the rear of the terrace there are examples of projections/extensions of mixed scale and appearance, an enclosed staircase, open metal staircases, metal extractor flues, metal gates and intruder prevention spikes on top of boundary treatments. The yard areas to the rear of the terrace are largely used for the storage of waste and the parking of vehicles. Consequently, the rear of the terrace is commercial in character and appearance.
9. The Residential Extensions Design Guide Supplementary Planning Document, adopted 2014 provides guidelines for the construction of dormers and states, "*dormer windows should be as small as possible*" and "*dormer windows should never appear as a large flat roofed box*". I acknowledge the proposed dormer would have a flat roof and would add to the bulk of the existing extension. However, what would constitute a 'large' dormer is entirely subjective.
10. The proposed dormer would not occupy the full length of the roof slope and it would be sited below the existing ridge line and above the existing eaves. Its massing would be limited due to the shallow roof pitch, and it would occupy a secondary roof slope to the rear of the building. Consequently, the proposed dormer would not dominate or unduly affect the character or appearance of the existing building and therefore I consider its size would not be 'large'. Additionally, I do not find that a smaller dormer(s) would provide a sufficient standard of living accommodation for future occupiers of the proposed flat.

Accordingly, I find the proposed dormer has been designed to be as small as possible.

11. There is a gap between the top of the first floor fenestration and the eaves of the existing extension, however, from what I witnessed on site, the gap does not adversely affect the extension's character or appearance. Furthermore, there are examples of fenestration in the terrace with a similar sized gap and therefore it does not appear incongruous. Additionally, the lack of a window within the second floor gable end of the extension does not unduly detract from the overall design of the extension.
12. The development would be visible from an unmade access to the rear of the terrace, from some of the surrounding dwellings, and through a gap between dwellings fronting onto Russell Street to the rear. However, the development would be viewed against the backdrop of the varied character and appearance of the existing terrace which, contrary to the Council's assertion, includes an L-shaped flat roofed dormer constructed to the rear of 79 Outram Street that is larger than the proposed dormer. It would therefore not disrupt the rhythm of the terrace. Furthermore, views of the development from Russell Street and the rear access would be fleeting or restricted by the high density two/three storey built form that surrounds the appeal site. Consequently, it would not appear discordant or unduly prominent from the surrounding area.
13. In reference to the main issue, the development would not adversely affect the character and appearance of the surrounding area. It would comply with Policy HG8(b) of the Ashfield Local Plan Review, adopted 2002 which seeks to ensure that the development of flats is acceptable in terms of appearance, scale and siting. It would also comply with Chapter 12 of the Framework with respect to achieving well-designed and beautiful places. The Council's reason for refusal also refers to the Guide for Converting Shops to Residential Supplementary Planning Document, adopted 2019. However, the conversion of the appeal building has already occurred, and the document is not directly applicable to the appeal proposal.

Other Matters

14. The Council assert that a decision contrary to the recent appeal decision³ would undermine the previous Inspector's findings. However, the information before me suggests that the dismissed appeal involved an extension that was larger than the appeal proposal and is therefore not directly comparable. I acknowledge that the Council sought amendments prior to approving the 2018 permission to reduce the mass of the proposed rear extension. However, I must determine the proposal on its own merits.

Conditions

15. I have had regard to the list of suggested conditions provided by the Council. In addition to the standard condition, which limits the time for the commencement of development, I have specified the approved plans for the avoidance of doubt and in the interests of proper planning. A condition in respect of external materials is necessary to ensure the external appearance of the development would be satisfactory.

³ APP/W3005/W/22/3310180

Conclusion

16. For the reasons given above, having regard to the development plan as a whole and all other material considerations, I conclude that the appeal should be allowed.

A Berry

INSPECTOR