



Appeal Decision

Site visit made on 23 April 2024

by L C Hughes BA (Hons) MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17th May 2024

Appeal Ref: APP/Q4245/D/23/3325288

5 Farndon Drive, Timperley, ALTRINCHAM, WA15 6NR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Miss Isabella Stanley against the decision of Trafford Metropolitan Borough Council.
 - The application Ref is 109241/HHA/22.
 - The development proposed is ground floor rear and side extension incorporating bedroom facilities and associated works.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. On 21 March 2024, after the appeal was submitted, the Council adopted Places for Everyone (PfE) as part of the Development Plan for Trafford. PfE is a joint Development Plan Document produced by nine Greater Manchester districts, of which Trafford is one. The Council provided me with a list of updated policies relevant to the appeal, and the appellant was given the opportunity to make any further comments in regard to those. I have taken into account the comments raised.
3. On the 19 December 2023 the Government published a revised National Planning Policy Framework (the Framework) accompanied by a written ministerial statement (WMS). The revised Framework is a material consideration which should be taken into account from the day of publication. I have familiarised myself with the content of the revised Framework and the accompanying WMS and none of the revisions to the Framework would appear to be material to this appeal. Having considered the revisions and in light of the principles of natural justice, in this instance I do not consider it necessary to invite any submissions from the parties on the revised Framework.

Main Issues

4. The main issues are the effect of the proposal on:
 - a) the character and appearance of the host property;
 - b) the living conditions of the occupiers of Number 7 Farndon Drive (No 7) with particular regard to outlook and light; and
 - c) if any harm caused in respect of issues a) and b), whether such harm is outweighed by the personal circumstances relating to the occupiers of the appeal property.

Reasons

Character and appearance

5. The appeal property is located within a cul-de-sac in a residential area. The appeal dwelling is a brick built semi-detached house. The surrounding properties are predominantly traditional semi-detached properties of a similar age, size and design.
6. The submitted plans indicate that the proposed rear extension would project 9m from the rear elevation of the property, with a width of approximately 4.7m and would have a hipped roof. The side extension would extend from the side of the proposed rear extension and rear of the main dwelling and have a depth of approximately 3.7m, a width of approximately 2m, and have a mono-pitched roof. There are no concerns regarding the side extension, or the proposed materials. The total floorspace of the proposed development would be 50.4m².
7. I noted from my site visit that the rear garden is a good size, and the proposed extension would leave an adequate amount of functional and usable garden space without appearing cramped or overdeveloped. However, the existing property has a depth of 7.3m. The proposed extension, with a depth of 9m would therefore double the length of the property. Furthermore, the proposed extension would be wider than the original built dwelling.
8. The proposed extension would be single storey, which would limit its visual impact, and would not be viewed to any great extent from the front of the property due to the existence of an earlier small side extension. However, when viewed from the rear it would unbalance the appearance of the host property when viewed alongside its semi-detached neighbour.
9. Despite being single-storey, the scale of the proposal would subsume the host property. The proposal would not appear as subservient to the host property, but would appear as disproportionate and over-dominant.
10. My attention has been drawn to a number of other extensions in the borough which have received planning permission.¹²³⁴⁵ I am mindful that consistency in the planning process is important and like cases should be decided in a like manner. Whilst it is inevitable for comparisons to be made, each will have its own site-specific circumstances and merits upon which it is considered, and a specific relationship with the host property. I note, for example, that the extension at Brooklands Road does not run the width of the property, nor project as far as the appeal proposal. 59 Lorraine Road is a detached property, and the extension does not project to the rear. The extension at Park Road whilst projecting outwards, does not extend the width of the property. The Colebrook Road extension only extends 3m beyond the existing main rear elevation. 29 Tabley Grove is also a detached property, and does not project out to the rear to the same extent as the appeal proposal.
11. As such, these developments do not appear to be directly comparable to that which is before me, and I attach them limited weight, which is insufficient to outweigh the harm that I have identified above.

¹ 95112/HHA/18 – 250 Brooklands Road

² 98032/HHA/19 – 59 Lorraine Road

³ 89979/HHA/16 – 149 Park Road

⁴ 92664/HHA/17 – 3 Colebrook Road

⁵ 96360/HHA/17 – 29 Tabley Grove

12. The Council have confirmed that following the adoption of PfE, in regard to design, the Council now use Policy JP-P1 of PfE, rather than Policy L7 of the Trafford Local Plan: Core Strategy (2012) (CS) and the Guide for Designing House Extensions and Alterations Supplementary Planning Document (2012) (SPD).
13. I consider that the proposed extension would harm the character and appearance of the host property. As such, it would be in conflict with Policy JP-P1 of PfE which seeks to ensure that development should respect the character of the locality in terms of design, siting, size and scale. The development would also be contrary to the Framework which promotes good design.

Living conditions

14. The proposed 9m rear extension would run along the common boundary with the adjoining property, No 7. The appeal proposal would reach a height of 2.5m adjacent to the boundary, with the ridge height rising to 3.4m. The ridge height of 3.4m would be 2.6m away from the boundary.
15. It is acknowledged that there is currently an existing hedge which is approximately 2m high which runs along this shared boundary. However, the proposed extension would be higher than the existing hedge. Furthermore, the extension would be of a more solid construction than the hedge, thus reducing the amount of light that can pass through, creating a more oppressive and overbearing feature and introducing built form along this shared boundary. The extension would also be a permanent construction, whereas the hedge could be removed at some point.
16. No 7 has a large garden. Notwithstanding this, the scale and expanse of the proposed 9m long extension, introducing an expanse of brickwork so close to the boundary, would lead to an unacceptable sense of enclosure and would harm the outlook from No 7, particularly from the amenity space close to the boundary.
17. There is no technical evidence before me in respect of loss of light or overshadowing. However, due to the height and length of the proposed extension it is likely that the proposal would overshadow part of the rear garden of No 7 for a proportion of the day. Whilst the existing hedge already leads to an element of overshadowing, the increased height of the proposed extension would exacerbate this, albeit to a small degree.
18. The appellant has drawn my attention to permitted development rights and commented that the SPD fails to acknowledge the most up to date legislation set out within the Town and Country Planning (General Permitted Development) (England) Order 2015 (the Order). Notwithstanding this, Class A of Part 1 to Schedule 2 of the Order would not allow for a 9m extension projecting from the rear of the host property.
19. The appellant has also highlighted that they could build a two-storey extension projecting 3m from the rear elevation, or a single-storey extension projecting 3m from the rear elevation which would reach 3m in height to the eaves and 4m to the ridge, which they argue would have a greater impact on the living conditions of the occupiers of No 7. However, due to their shorter length along the boundary, I do not agree that extensions of this type would harm the

outlook or lead to a level of overshadowing to such an extent as that proposed. I therefore give these fallback positions limited weight.

20. Additionally, permitted development rights would allow for an outbuilding which could reach a height of 2.5m within 2m of the boundary, or 4m high further than 2m away. However, outbuildings should have a purpose incidental to the enjoyment of the house. Technical guidance⁶ relating to permitted development rights is clear that a purpose incidental to a house would not, however, cover normal residential uses, such as separate self-contained accommodation or the use of an outbuilding for primary living accommodation such as a bedroom, bathroom, or kitchen. Due to the specific requirements of the appellant, I am not therefore convinced that there would be a realistic prospect of this fallback position coming forward. I therefore give this fallback position limited weight.
21. My attention has again been drawn to other examples of extensions that have been permitted. The property at 149 Park Road has a 2.5m boundary treatment, but I note that this extension does not immediately adjoin the boundary, but retains a gap of approximately 1.2m from the neighbouring property, which it does not physically adjoin. The extension at the property at Wellington Road⁷ would have an eaves level of 2.3m and would be close to the boundary with next door. However, this is a detached property, and there is more space between the extension and the neighbouring dwelling. As such these extensions would not be as overbearing or overshadowing as the proposal. I therefore do not find that these examples are directly comparable to the proposed development, and afford them limited weight.
22. The Council have confirmed that for the impact on amenity Policy L7.3 of the CS has not been superseded by PfE, and that the SPD is given full weight. The CS predates the publication of the Framework. In such circumstances paragraph 225 of the Framework advises that in considering the weighting to be given to policies, regard should be accorded to their degree of consistency with the Framework. In so far as Policy L7.3 and the SPD seek to protect the amenity of residents, they are consistent with Paragraph 135 of the Framework which seeks to ensure a high standard of amenity for existing and future users. The conflict between the proposal and Policy L7.3 and the SPD is therefore given significant weight.
23. For the reasons given above, I conclude that the appeal proposal would harm the living conditions of the occupiers of No 7 with regard to outlook and light. It would therefore conflict with Policy L7.3 of the CS which states that development must not prejudice the amenity of occupants of adjoining properties by reason of overbearing or overshadowing. It would also conflict with the guidance contained in the Supplementary Planning Document SPD4: A Guide for Designing House Extensions and Alterations, which seeks to ensure that extensions and alterations do not adversely affect the amenities of neighbouring occupiers. Lastly, there would be conflict with the Framework, which seeks to create places with a high standard of amenity for existing users.

Personal circumstances and the planning balance

24. I recognise that the failure of this appeal could affect the living arrangements for the appellant. I have had due regard to Article 19 of the UN Convention on

⁶ Permitted Development Rights for Householders: Technical Guidance, MHCLG (September 2019).

⁷ 90483/HHA/17

the Rights of Persons with Disabilities (UNCPRD), to the Human Rights Act 1998 (HRA), and to the Public Sector Duty (PSED) under Section 149 of the Equality Act 2010, which sets out the need to eliminate unlawful discrimination, advance equality of opportunity and access, and foster good relations between persons who share a protected characteristic and those who do not share it. Disability is a relevant protected characteristic to which the PSED applies.

25. These rights are engaged in reaching my decision. However, they are qualified rights and interference may be justified where in the public interest.
26. In weighing the personal circumstances in this balance, this has to be considered against the harm that I have found that the proposal would have on the character and appearance of the area and on the living conditions of the occupiers of No 7, in conflict with Policy JP-P1 of the PfE and L7.3 of the CS.
27. In favour of the appeal, the additional living accommodation would deliver many benefits related to a person with the protected characteristic of disability. The proposal has been designed to specifically meet the appellant's needs which are not being met within the existing accommodation. The benefits would include improved access and circulation space, bedroom and bathroom accommodation more suited to the appellant's specific needs, and an adjacent bedroom for a carer. The negative impacts of dismissing the appeal on the appellant arise since they would be unable to extend their home as sought. Their health and accessibility requirements in terms of living conditions would not be met in this regard.
28. Furthermore, there is a chance that the appellant's specific needs would not be met if an acceptable alternative could not be put forward. However, having due regard to this, and the need to eliminate discrimination and promote equality of opportunity, I have concluded that the interference of rights is necessary and proportionate in dismissing the appeal, in view of the legitimate and well-established planning policy aims to protect the character and appearance of the host building and to protect the living conditions of neighbouring residents.
29. The PSED considerations would not outweigh the harm that I have identified, and this harm would be permanent. It is unclear whether other, less harmful, designs have been explored that could accommodate the appellant's requirements. Even if I were to be of the view that paragraph 11) d) of the Framework is engaged, the harm from the proposed development significantly and demonstrably outweighs its benefits. Therefore, the appeal should not succeed.

Conclusion

30. The proposal would conflict with the development plan taken as a whole and the material considerations do not indicate that the decision should be made other than in accordance with the development plan.
31. For the reasons given above the appeal is dismissed.

L C Hughes

INSPECTOR