

Appeal Decision

Site visit made on 6 August 2024

by C Harding BA (Hons) PGCert PGDip MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5th September 2024

Appeal Ref: APP/J0540/W/23/3329780

1036 Lincoln Road, Peterborough PE4 6AS

- 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 Mark Benns on behalf of Paul Bancroft Architects against the decision of Peterborough City Council.
 - The application Ref 22/01539/FUL dated 31 October 2022, was refused by notice dated 24 April 2023.
 - The development proposed is alterations and extension of an existing dwelling to create 3no. one bedroom flats.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The name of the appellant on the appeal form differs from that on the planning application form, however the identity of the appellant has been clarified, and I have proceeded on the basis of this clarification.

Main Issues

3. The main issues are:

- the effect of the proposal upon the living conditions of occupiers of nearby properties with particular regard to privacy, light and outlook, and;
- whether the proposal would provide suitable living conditions for future occupiers with particular regard to standard of accommodation, outdoor amenity space and privacy.

Reasons

Living conditions of occupiers of nearby properties

4. The appeal property is a two-storey semi-detached property. A rear garden is currently accessed via a driveway to the side of the property. A neighbouring property, 1038 Lincoln Rd ('No 1038') itself has an area of hardstanding that abuts the shared boundary and presents a side elevation to towards the appeal property. This elevation contains windows at both ground and first floor levels and it is not disputed that the ground floor window serves a kitchen.

5. The rear garden of the appeal property abuts other rear gardens of both properties on Lincoln Road and Balmoral Road. This results in the rear areas of dwellings on these streets to having an enclosed and fairly intimate character. Although there are relatively close relationships between properties and gardens, I saw that roof space accommodation and rear dormer windows are not prevalent in the immediate area. As a result, established relationships between dwellings are generally on equivalent terms, with facing windows at broadly similar levels.
6. The installation of a large dormer window into the rear roof slope of the appeal property would result in living accommodation being provided at a higher level than at other nearby properties. Although the dormer window would not project any closer to other dwellings than the existing rear elevation of the appeal property, its elevated position would provide occupiers of the proposed flat within the roof space extensive views across and into several neighbouring gardens, more so than would be likely from a first-floor window. Given the lack of other, similar, rear roof slope alterations in the vicinity, this would result in the appeal property appearing to unusually loom over the rear gardens areas and rear elevations of properties on Balmoral Road.
7. Furthermore, the proposal would result in the roof space providing the entirety of living space for a single bedroom flat, with the dormer window being the principle means of providing future occupiers with outlook. As a result, the use of the roof space living areas would be extensive and therefore so would opportunity for overlooking, in comparison to the likely less frequent use of such space as part of a single, larger dwelling.
8. It has been put to me that the windows within the dormer structure could be obscure glazed. Whilst this would reduce the possibility of loss of privacy to occupiers of nearby properties, it would afford future occupiers of the upper flat with limited outlook, as the only other windows would be a pair of rooflights within the front roof slope. In these circumstances, it would not be appropriate to secure such an arrangement by means of a planning condition.
9. I am also aware that the Council has recently approved similar separation distances elsewhere. However, the example provided does not appear to be wholly comparable to the appeal proposal or its surroundings, particularly in terms of introducing roof space accommodation into an existing built environment, where the additional height of the proposal above nearby properties is a significant factor. Furthermore, even though the Council has not adopted specific separation distances within its local plan, it is possible to consider the effect of the proposal on the basis of the character of the appeal site and its surroundings.
10. The proposed side extension would occupy the existing area of hardstanding to the side of the appeal property and would reduce the separation to the side elevation of No 1038. Its size and proximity to the ground floor window in the side elevation of No 1038 would result in a significant adverse effect to the levels of outlook and light available to occupiers of the room which this window serves. Even if it is the case that the window at No 1038 is itself an alteration, I must consider the effect of the proposal on the arrangement as it currently stands, and this fact would not mitigate the harm that I have found.

11. The proposal would result in harm to the living conditions of occupiers of nearby properties with particular regard to privacy, light and outlook. It would therefore be contrary to Policy LP17 of the Peterborough Local Plan ('PLP'), which amongst other factors states that new development should not result in an unacceptable impact upon the amenity of existing occupiers of nearby properties, including loss of privacy or light.

Living conditions of future occupiers

12. PLP Policy LP17 requires that development proposals should be designed to ensure that the needs of future occupiers are provided for, including adequate amenity for living and storage needs. The policy does not require adherence with Nationally Described Space Standards ('NDSS') and it has not otherwise been shown that the standards, or indeed any alternatives, have been adopted by the Council in its development plan. Therefore, while the NDSS are a material consideration and provide a reasonable guide to acceptable minimum levels of internal space, the weight I can attribute to them is limited.
13. There is dispute between the parties as to the gross internal floor area of the proposed flats. The Council indicate that Unit 1 would measure 51.7 square metres ('sqm'), Unit 2 45.51sqm and Unit 3 36.65sqm. In comparison, the appellant indicates that the units would measure 55sqm, 54sqm and 37.9sqm respectively.
14. NDSS would require Units 1 and 2 to be a minimum of 50sqm, and as Unit 3 would include a shower room, this unit would be expected to be 37sqm. Taking the Council's figures which would represent the worst case, Unit 1 would meet the minimum NDSS requirements, Unit 2 would fall below the expected minimum by around 5.5sqm, and Unit 3, around 0.35sqm.
15. Therefore, I consider that Unit 1 would provide a suitable standard of accommodation. Unit 3 would appear to fall short of the NDSS minimum standard, but given the discrepancies between the main parties in terms of the stated floorspace, I consider that a shortfall of 0.35sqm would fall within the margins of reasonable error, and given the limited weight that I can attach to the NDSS, on balance, I find that this unit would also provide acceptable levels of accommodation.
16. There is a larger difference between the parties in relation to Unit 2, which is variously stated as being either 4.5 sqm below expected NDSS minimum provision, or 4sqm over. In the context of the overall size of the unit being between 45.51sqm and 54sqm, these differences are considerable, and unexplained, and the evidence before me does not include dimensioned drawings that would enable me to reach a conclusive view on this point.
17. By way of indication, there would potentially be a shortfall of around 10% against the NDSS minimum standard, which would be notable and likely recognisable to future occupiers. Accordingly, I cannot be certain that this unit would be of a suitable standard and would not feel cramped or oppressive for two occupiers in the future.
18. It is proposed that the rear garden of the property would be a communal space, and given its size, I have no reason to conclude that this space would

not be sufficient for residents of all units to meet their day-to-day and recreational needs. Therefore while, the Council has put to me that there is an overall shortfall of public open space provision within the area, I consider that any additional pressure of existing public open space provision would be very minor, particularly as the proposed specification indicates that the total level of occupation of the proposed flats would be unlikely to exceed 5 persons. This would be comparable to the occupancy of a single family two-bedroom dwelling, which is the existing configuration of the appeal property.

19. In these terms, additional pressures on existing public open space would be modest, and it is acknowledged by the Council that such open space exists within easy walking distance of the appeal property. On this basis, I conclude that the overall provision of outdoor amenity space would be acceptable.
20. Unit 1 includes a bedroom at ground floor, where the only available window would look directly into the rear garden. This also would mean that any users of the garden would be likely to be afforded direct close proximity views into this bedroom.
21. The proposed configuration of the appeal property as separate flats means that occupiers of each unit would not necessarily be known to each other and the relationship between this bedroom and the garden would not be comparable to other circumstances, such as a single dwelling or House in Multiple Occupation. Furthermore, the way the garden space could be used, would also mean that the proposed arrangement would not be comparable to a room fronting a street, where views into rooms are more likely to be transitional and brief.
22. It is possible that the occupiers of Unit 1 could make use of blinds or curtains in order to increase privacy levels, however this window would be the only means of providing light or outlook to the bedroom, and if the garden was in use for prolonged periods, as may occur during summer months, it would be unreasonable to expect occupiers of Unit 1 to remain in an enclosed room with reduced light or outlook for significant periods of time in order to maintain an acceptable degree of privacy.
23. It has been put to me that screening could be provided within the garden itself by means of landscaping or fencing, however, no details of this have been provided. It is also possible that such measures could have other effects upon the living conditions of future occupiers of Unit 1 in terms of outlook and light. Therefore, I consider that it would not be appropriate to secure such details by means of a planning condition. Overall, given the harm that would result to future occupiers of Unit 1, the proposed garden would not comprise a well-designed and located communal amenity space.
24. The proposal would fail to provide suitable living conditions for future occupiers with particular regard to privacy, the standard of accommodation and outdoor space. It would be contrary to PLP Policy LP17 which states that development proposal should be designed to ensure that the needs of future occupiers are provided for including, adequate privacy, adequate amenity for living and storage needs, and well designed and located communal amenity space.

Other Matters

25. It is put to me that a large dormer window and other extensions could be carried out as development permitted under the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). However, there is no substantive evidence before me such as a Lawful Development Certificate which would confirm that such extensions would be possible, and it is not within the scope of this appeal for me to determine this fact. Accordingly, I conclude that the prospect of such works being carried out would be no more than a theoretical possibility.
26. In addition, it is suggested that the property could be used as a House in Multiple Occupation without the need for additional permissions. However, this has also not been established by means of a LDC and there is no other substantive evidence before me that would indicate the property would move into such a use should the appeal fail.
27. Accordingly, I also consider this scenario as being no more than a theoretical possibility, and furthermore it has not been shown that such a use would result in a greater level of harm than the proposal which is before me in relation to the main issues that have been identified. Overall, I afford all of the hypothetical scenarios that have been put to me limited weight as fallback positions.
28. Even if I were to agree that the proposal would be acceptable in terms of its effect on highway safety, or noise and disturbance, the absence of such harm would be a neutral factor which would not weigh in favour of the proposal.
29. The proposal would result in the provision of a further two residential units in addition to that which currently exists. This would represent a boost to the supply of housing in line with the aspirations set out at Paragraph 60 of the National Planning Policy Framework ('the Framework'), and to which I afford moderate weight as a benefit of the proposal. Further benefits would result through economic activity both during construction and upon occupation, however given the scale of the proposal, such benefits would only be modest.

Conclusion

30. The proposal would conflict with the development plan when read as a whole. Although it would result in some benefits, there are no considerations, including the Framework, that would indicate that a decision should be taken other than in accordance with the development plan. I therefore conclude that the appeal should be dismissed.

C Harding

INSPECTOR