



Appeal Decision

Site visit made on 28 August 2024

by M Ollerenshaw BSc (Hons) MTPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 September 2024

Appeal Ref: APP/Z4718/D/24/3344742

6 Grimscar Avenue, Birkby, Huddersfield, Kirklees HD2 2TU

- 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 Mr Faiz Alam against the decision of Kirklees Metropolitan Council.
 - The application Ref is 2024/62/90447/W.
 - The development proposed is erection of single storey rear extension and installation of dormer windows to the front and rear.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposed development on:
 - The character and appearance of the host property and the surrounding area, including the Birkby Conservation Area;
 - The living conditions of the neighbouring occupiers of 4 and 8 Grimscar Avenue, with particular regard to daylight, outlook and privacy; and,
 - The living conditions of the occupiers of the host property, with particular regard to external amenity space.

Reasons

Character and appearance

3. The appeal site comprises a two-storey semi-detached dwelling with a dual pitched roof. The property is constructed in red brick with a slate roof. It is set back from Grimscar Avenue behind a low wall, railings and a paved front garden. There is a fall in levels from the front to the rear of the site such that the rear yard is at a lower level than the ground floor of the property. The rear yard is accessed via steps down from the kitchen door and access can also be obtained from a rear path which serves several properties on Grimscar Avenue, Bleasdale Avenue and Grisedale Avenue.
4. The site is within the Birkby Conservation Area (CA) which is a predominantly nineteenth century residential suburb of mainly stone terraces, many of good

architectural quality, comprising stone detailing to the door and window surrounds, and well-ordered roofscapes including chimney stacks. Properties are generally set back from the road behind low walls and gates. Their consistent building lines, strong architectural rhythms and street scene presence contribute positively to the character and appearance of the CA. Additionally, the trees lining the roads, together with green open spaces, provide a pleasant, verdant character to the CA.

5. Dormer extensions are proposed to both the front and rear roof slopes of the property. The front dormer would have a pitched roof and be set in from the sides of the existing roof, slightly below the ridge line and back from the eaves. I did not observe any other dormers within this part of the CA of a scale and design comparable to the appeal proposal. The front dormer would be prominently sited and would be an intrusive and uncharacteristic addition to the property, detracting from the simple dual pitched roof form and the prevailing character of the area.
6. The rear dormer would be of similar design to the front dormer but of significantly larger proportions. While less prominently sited, it would still be partially visible from Bleasdale Avenue. From there it would appear as a dominant addition to the rear roof slope. The adverse visual effects of the two dormers would be exacerbated by the positions of their window openings not aligning with the windows below. Thus, the dormers would not harmonise successfully with the property, resulting in an unbalanced appearance to the semi-detached pair and detracting from the well-ordered roofscape that is one of the characteristic features of the CA. The appellant refers to other extensions approved in the CA but the substantive details have not been provided and so I cannot be sure they are comparable to the appeal proposal.
7. Although the proposed single storey extension would project a fair distance from the rear elevation of the property, it would be of relatively modest height and clearly subservient to the property. Some external space would be retained to the rear and one side of the yard. Therefore, the extension would not result in a cramped form of development. Despite the shallow hipped roof not matching the roof pitch of the existing building, I am satisfied that the single storey extension would not be harmful to the character of the property or the CA, particularly given its siting at the rear, where views of it would be limited.
8. For the above reasons, I conclude that the proposed development would be harmful to the character and appearance of the host property and the area, and would fail to preserve or enhance the character or appearance of the CA. Thus, it would conflict with Policies LP24 and LP35 of the Kirklees Local Plan Strategy and Policies 2019 (KLP) which require proposals to promote good design ensuring the form, scale, layout and detailing of development respects and enhances the character of the townscape and the historic environment. It would also conflict with the Council's House Extensions and Alterations Supplementary Planning Document 2021 (SPD) where the general design principles seek design appropriate to local character. The proposal would also conflict with the National Planning Policy Framework (the Framework), which promotes well-designed development that conserves and enhances the historic environment.
9. The harm to the significance of the CA would result in less than substantial harm. This harm still however carries great weight. Paragraph 208 of the

Framework requires that the less than substantial harm be balanced against the public benefits of the proposal including securing its optimum viable use. The proposal would provide additional accommodation for the occupants of the property. However, this is not a public benefit. I do not find that there are any public benefits that would outweigh the less than substantial harm.

Living conditions of neighbouring occupiers

10. The single storey extension would be set away from the boundary with the attached neighbouring dwelling, No 4, and positioned to the north of that property. Consequently, the extension would not significantly reduce outlook or daylight to this neighbour's rear ground floor window or yard area. However, the kitchen window to the southern side of the extension would overlook the neighbour's rear yard at close quarters and, at an oblique angle, their ground floor rear window. While there is a detached garage to the rear of No 4, and a low wall between the rear yards of the two properties, these would not screen views from the side window to the neighbour's yard and rear window. As a result, the proposal would result in unacceptable overlooking of No 4.
11. No 8 is located to the north of the appeal site and is set at a slightly lower level. There are ground and first floor windows to the rear elevation of No 8, beyond which there is a yard area which adjoins the site. The proposed extension would create a long flank wall immediately alongside this neighbour's rear yard. Given the length and height of the proposed extension and its position to the south of No 8, together with the difference in levels between the two properties, the proposal would result in an overbearing impact on the neighbour's rear yard which would significantly reduce the outlook from this external space and from the neighbour's rear ground floor window. Due to its proximity, scale and orientation, the extension would also be likely to unacceptably reduce daylight to the neighbour's yard and ground floor window.
12. A further concern raised by the Council relates to an overbearing impact on the rear access path as a result of the single storey extension. However, the proposal would not be likely to have significant effects in this regard given the likely infrequent use of the path for accessing rear gardens or for taking out and collecting bins, for example. The single storey extension would not unacceptably overlook 30 Bleasdale Avenue, subject to the use of obscure glazing to the rear kitchen window which could have been secured by condition had I been minded to allow the appeal. Given their siting and orientation, the dormers would not be harmful to the neighbours' living conditions.
13. I acknowledge that no objections to the proposal have been received from the neighbours. Notwithstanding this, my assessment has been made on the effect on the living conditions of existing and future neighbouring occupants and the absence of objections does not equate to there being no harm.
14. I conclude that the single storey extension would adversely affect the living conditions of the occupiers of Nos 4 and 8 with regard to daylight, outlook and privacy. It would conflict with KLP Policy LP24, the SPD and the Framework, where these seek to safeguard the living conditions of neighbouring occupiers.

Living conditions of occupiers of the appeal dwelling

15. The proposed single storey extension would occupy a large proportion of the rear yard, which is already of limited size. While at least half of the yard would be retained, part of it would be occupied by external steps. The remaining area would be narrow and feel hemmed in between the side of the extension and the boundary with No 4. It would be too restricted in size to meet the needs of the likely number of occupiers of the four-bedroom property and fail to provide a sufficiently useable outdoor area for sitting out, for example. While the property does also have a garden to the front, due to its position adjacent to the road and the low boundary wall to the site frontage this is not a private space.
16. I conclude that the proposal would be harmful to the living conditions of occupiers of the host property, having regard to external amenity space. It would conflict with KLP Policy LP24, the SPD and the Framework which require, amongst other things, that developments provide a high standard of amenity for future occupiers.

Other Matters

17. I have had due regard to the Public Sector Equality Duty contained in Section 149 of the Equality Act 2010, which requires me to consider the need to eliminate unlawful discrimination, to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it. Protected characteristics include a person's disability or age. I have also had regard to the rights conveyed within the Human Rights Act. The proposal would help to accommodate the particular needs of one of the occupiers of the property. However, there is no convincing evidence before me to indicate that the appeal proposal is the only means of providing the accommodation sought. The dismissal of the appeal is a proportionate and necessary response having regard to the legitimate and well-established planning objective of preserving or enhancing the character or appearance of conservation areas.

Conclusion

18. For the reasons stated above, the appeal proposal would have an unacceptable impact on the living conditions of neighbouring occupiers, as well as occupiers of the host property. It would not respect the character and appearance of the host property or the area and would fail to preserve or enhance the character or appearance of the CA.
19. The development would be contrary to the development plan and there are no material considerations to suggest a decision other than in accordance with it. I therefore conclude that the appeal should be dismissed.

M Ollerenshaw

INSPECTOR