



Appeal Decision

Site visit made on 4 September 2024

by M Clowes BA (Hons) MCD PG CERT (Arch Con) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 September 2024

Appeal Ref: APP/C2741/D/24/3346270

9, Eastfield Court, York, North Yorkshire, YO10 5LA

- 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 Ivan Zhou against the decision of the City of York Council.
 - The application Ref is 24/00164/FUL.
 - The development proposed is side extension and additional storey.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The description of development in the banner heading above is taken from the planning application form, as there is no evidence that the description on the Council's decision notice was agreed to by the appellant.
3. The appellant suggests that the proposal to add an upwards extension should be acceptable as it would amount to permitted development under Article 3(1) and Schedule 2, Part 1, Class AA of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (GPDO)¹. However, Paragraph AA.2(3) of Part 1, Class AA of the GPDO requires, as a condition of the permission, that prior approval first be sought for the matters listed in that paragraph. It is clear from the application form and the description of development that planning permission, rather than prior approval has been sought. I have determined the appeal on this basis and I will return to this matter later in my decision.
4. The Council's reasons for refusal refer to the City of York Local Plan – Publication Draft (LPPD) 2018. Whilst this emerging plan appears to be at an advanced stage of preparation, I cannot yet give it full weight. Nevertheless, it is a material consideration that I have had regard to in reaching my decision.

Main Issues

5. The Council has not raised any concerns with regard to the proposed side and rear extension. Based on all that I have seen and read, I have no reason to take a different view. Consequently, the main issues in relation to this appeal are the effect of the proposed upwards extension upon i) the character and appearance of the area, ii) the living conditions of neighbouring occupiers with particular regard to privacy, and iii) whether there would be appropriate provision for cycle storage.

¹ As set out on page 2 of the appellant's 'Resubmission Report.'

Reasons

Character and Appearance

6. The appeal site consists of a detached bungalow within a cul-de-sac, forming part of a wider residential area. The majority of the street comprises semi-detached bungalows of a consistent house-type, set in relatively regular positions to the road, despite some minor variation to the western building line. In this regard, the semi-detached bungalows frame the street and lead the eye to the 2 pairs of 2-storey semi-detached houses that terminate the vista at the head of the cul-de-sac. All properties within Eastfield Court have a driveway to the side. In combination with the landscaped front gardens and low boundary walls, they provide a sense of spaciousness to the street scene, that contributes positively to the character and appearance of the area.
7. The House Extensions and Alterations Supplementary Planning Document (SPD) 2012, states that any extension should normally be in keeping with the appearance, scale, design and character of both the existing dwelling and the street scene generally. It goes on to advise that key criteria include the character of the space between buildings and the form and detail of buildings².
8. The existing bungalows and houses within Eastfield Court consist of side facing gables and due to their semi-detached nature, share a wide plan form. They are therefore of a consistent scale and form that is not undermined by the minor variations in facing materials or post-construction alterations. In contrast, the host dwelling presents a narrow, gabled frontage, such that it already appears as an anomalous form within the street scene. However, this is mitigated by its single storey form and recessive position, such that it is not particularly noticeable, other than in localised views towards the end of the cul-de-sac.
9. It is proposed to raise the eaves and ridge of the roof to create an additional storey so that the host dwelling would continue to present a gable to the front. Whilst the design would not be incompatible with the host dwelling, the increased scale would be significant and attention would be drawn to its contrasting form. This would accentuate its inconsistency with the general form of bungalows and houses within the established street scene, as well as those to the rear which form the backdrop to the appeal site.
10. Whether or not the appeal site could be considered as a small plot, the host dwelling is sited very close to the northern boundary with No 10 Eastfield Court, which has a side extension. The proposed upwards extension would enclose the gap between the properties such that there would be little visual separation between the two. When combined with the proposal to form 2 car parking spaces in lieu of the front garden, the resultant development would appear cramped and austere, thereby eroding the established spaciousness of the street scene. An incongruous and inconsistent form of development would therefore ensue.
11. Paragraph 124 of the National Planning Policy Framework (the Framework) supports the use of airspace above existing residential premises for new homes. This proposal relates to the extension of an existing dwelling, rather than the creation of a new one. Even so, it clarifies that upward extensions should be allowed where the development would be consistent with the

² Paragraphs 7.1 and 7.2 of the Council's SPD.

prevailing height and form of neighbouring properties and the overall street scene, which I have found would not be the case.

12. The proposed development would have an adverse effect on the character and appearance of the area. The proposal therefore conflicts with Policies D1 and D11 of the LPPD which seek to ensure amongst other things, that development proposals respond positively to the immediate architectural context and local character, objectives shared with the SPD. It would also conflict with Paragraph 135 of the Framework which states that as well as being visually attractive, developments should function well and add to the overall quality of the area.

Living Conditions

13. Paragraph 3.1 of the Council's SPD advises that proposals should not result in direct overlooking of rooms in neighbouring dwellings, or excessive overlooking of adjacent garden areas.
14. The parties dispute the distance between the proposed rear elevation of the first-floor extension. The Council cites a distance of 17.8m, while the appellant suggests 20.67m. Either way, the separation would be below the 21m figure referenced in the SPD. Likewise, the proposed first floor rear windows would be below the guideline distance of 7m from the rear boundary. Whilst the proposed development would be close to the SPD guidelines, it would nonetheless be below the minimum standards.
15. The host dwelling is sited at a slightly higher land level such that the upper sections of the ground floor windows are already visible from the rear garden of No 5 Sussex Close. However, the close boarded fence and low-level landscaping including a small fruit tree provide mitigation to ensure privacy between properties.
16. In contrast, the proposed first floor bedroom window would be elevated in proximity to the rear boundary. A clear and unobstructed view down into the rear garden of No 5 Sussex Close would be possible from a vantage point that does not currently exist. The neighbouring occupants would not be able to find seclusion within the garden from views from the proposed first floor. An erosion of privacy would therefore ensue. Whilst existing dwellings nearby may not comply with the SPD separation guidelines, that does not justify permitting development that would be harmful to the living conditions of neighbouring occupiers.
17. The proposed first floor bedroom window in the rear elevation of the upwards extension would be offset from the windows serving habitable rooms in the rear elevation of No 5. Direct overlooking between windows would be unlikely, even with the deviation from the SPD guideline. Similarly due to the position of No's 8 and 10 Eastfield Court being to either side of the appeal site, it would not be possible for direct views into neighbouring rooms. Only oblique views across the corners of No 8 and 10's rear gardens would be possible from the proposed first floor rear window, such that the private amenity space of each dwelling would not be overlooked.
18. The privacy afforded to the occupants of No 4 Sussex Close would be unaffected by the proposal given its location perpendicular to the appeal dwelling and beyond the rear garden of No 5, which is an intervening feature.
19. The proposed development would not be harmful to the living conditions of the occupiers of No's 8 and 10 Eastfield Court and No 4 Sussex Close. It would however, adversely affect the living conditions of the occupiers of No 5, with

particular regard to the privacy afforded to the rear garden. Conflict is therefore found with Policy D11 of the LPPD which seeks to protect the amenity of current and neighbouring occupiers, an objective shared by the SPD. It would also conflict with paragraph 135 of the Framework which requires new development to have a high standard of amenity for existing users.

Cycle Storage

20. Cycle storage is proposed within a small garage type enclosure to the front/side of the dwelling, and within a lean-to structure on the northern elevation, totalling 3 spaces. The Council considers that the cycle provision has not been adequately designed as access to the latter facility would be via a narrow gap to the side of the dwelling, which is below the 0.9m guideline set out at paragraph 8.4 of the SPD. I agree that it would be difficult to manoeuvre bikes around the pinch point between the corner of the dwelling and the boundary fence, such that 2 of the proposed cycle spaces are unlikely to be readily accessible.
21. The Council has not referred to any policy or guideline that specifies the amount of cycle storage that would be required for this type of householder development. Nevertheless, the appellant has not disputed the need to provide cycle storage and has suggested that a secondary free-standing cycle store could be sited within the plot. Given the site constraints, this would have to be within the front/side garden for it to be accessible. It seems to me in the absence of any evidence to the contrary, that a planning condition could secure a sensitively designed enclosure, particularly given that paragraph 12.8 of the SPD does not appear to preclude such structures within front gardens.
22. I find that the proposal subject to a suitably worded condition, would make adequate provision for cycle storage. In this regard the proposal would comply with Policy D11 of the LPPD which requires developments to be accessible, an objective shared by paragraph 135 of the Framework.

Other Matters

23. The existing bungalow is said to not conform to the Governments 'Technical Housing Standards – Nationally Described Space Standard' 2015, in terms of internal space. Hence, it is suggested that the proposal would improve the living standards of the occupants. Be that as it may, there is no evidence that the proposed upwards extension is the only way to improve living space. Other solutions that would not exert the harm identified, may be possible.
24. Reference has been made to other approvals for upwards extensions by the Council in 2015, 2021 and 2023. Whilst presented with site layout plans, I have not been provided with any other information including specific property addresses, elevation drawings, officer reports or decision notices in relation to these suggested permissions. Hence, I cannot be certain that the relationship of these developments with neighbouring dwellings or the street scene context, are comparable.
25. There is no evidence before me that an application for prior approval in respect of the proposed upwards extension has been or would be likely to be granted. It does not provide a fallback position that has a realistic prospect of being implemented.

Conclusion

26. I have found that the proposal would make adequate provision for cycle storage. However, this is neutral in the planning balance weighing neither for, nor against the proposal. An adverse effect would be exerted on the character and appearance of the area and the living conditions of the occupiers of No 5 with regard to privacy. Thus, the proposal would conflict with the emerging development plan and there are no considerations including the Framework, that indicate a decision otherwise than in accordance with it. The appeal is dismissed.

M Clowes

INSPECTOR