



Appeal Decision

Site visit made on 20 September 2024

by A M Nilsson BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 October 2024

Appeal Ref: APP/V2004/D/24/3340145

44 Shaftesbury Avenue, Kingston Upon Hull HU8 9BH

- 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 S Dixon against the decision of Kingston-Upon-Hull City Council.
 - The application Ref is 23/03348/FULL.
 - The development proposed is the erection of a full width single storey rear extension (6.2m long x full width x 3.5m (max) high) following demolition of existing extension.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The development has been undertaken. I am therefore considering the appeal retrospectively.

Main Issue

3. The main issue is the effect of the development on the living conditions of the occupants of no. 46 Shaftesbury Avenue with regard to outlook and light.

Reasons

4. The appeal property is a two-storey terraced dwelling. The pre-existing plans show that the property previously had a single storey rear extension with a lean-to roof which mirrored a similar extension to the adjoining property at no. 42 Shaftesbury Avenue. The previous extension spanned around half the width of the property. The previous extension has been replaced with the single storey extension subject to the appeal. Many of the surrounding properties have single storey rear extensions although most do not appear to span the full width of the property.
5. The development subject to the appeal is a single storey rear extension which projects 6.1 metres from the rear of the property and spans its full width, save for a small gap where the boundary fence is located. One side abuts an existing single storey rear extension to no. 42 Shaftesbury Avenue and measures 3.5 metres in height. The other side runs along the boundary with no. 46 Shaftesbury Avenue and measures 3.4 metres in height.
6. On my site visit, in addition to seeing the development at the appeal site, I was able to observe it from the rear of no. 46 Shaftesbury Avenue and from the ground floor habitable rooms inside the property. These ground floor rooms

comprise a dining room with a window in the rear elevation and a kitchen with a window which is located in a single storey off-shoot with a window in its side elevation facing directly towards the development at the appeal site.

7. Due to a combination of its overall height and projection, the appeal development appears dominant and overbearing and creates a sense of enclosure when viewed from the aforementioned habitable room windows. Therefore, due to the increase in height on the boundary, combined with the length of projection, the development causes significant harm to the outlook from no. 46 Shaftesbury Avenue.
8. Furthermore, given the siting of the appeal property, roughly to the south of no. 46 Shaftesbury Avenue, the development is likely to cause overshadowing and reduce the amount of light to the property, however this harm is secondary to the harm caused to outlook.
9. The evidence shows that the appeal property has planning permission for a single storey rear extension¹. The extension in this consent projects a similar distance from the rear of the property as that subject to this appeal and also spans the full width of the property. Crucially, however, it differs in its height on the common boundary with no. 46 Shaftesbury Avenue, with the appeal development being between 0.5m and 0.6m higher. Therefore, whilst it is capable of being considered a fallback, the difference in height is such that it does not alter my finding.
10. The appellant outlines how, in the extant consent, the description of development refers to '3.5m (max) high' which the appeal development accords with. That consent is however on the condition that the development is carried out in complete accordance with the approved plans, which show a height significantly lower than 3.5m on the common boundary with no. 46. Should the appellant remain of the view that the appeal development complies with this consent, there are other mechanisms available to establish whether or not a development has been lawfully implemented.
11. The development therefore causes significant harm to the living conditions of the occupants of no. 46 Shaftesbury Avenue. It is contrary to Policy 22 of the Hull Local Plan (2017) which requires, amongst other things, that house extensions should be designed to minimise their impact on the amenity of neighbouring occupiers and must not over-dominate or unduly enclose neighbouring properties and minimise the impact of overshadowing and loss of daylight.
12. The development is also contrary to the guidance contained in SPD1: Designing a House Extension, which outlines, amongst other things, that extensions should not be over dominant or overbearing.

Other Matters

13. I note the appellant's reference to a two-storey extension to the rear of no. 58 Shaftesbury Avenue. Although I do not have full details of that development in order to give it significant weight, it appears to be somewhat of an exception to the make-up of the area and it does not justify allowing harmful development in this case.

¹ Planning Application Ref: 22/00922/FULL

Conclusion

14. The development therefore conflicts with the development plan and there are no identified other considerations, including the National Planning Policy Framework, that outweigh this conflict.
15. For the reasons set out above, and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

A M Nilsson

INSPECTOR