

Appeal Decision

Site visit made on 11 December 2024

by P Eggleton BSc(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 January 2025

Appeal Ref: APP/E2340/D/24/3354186

259 Manchester Road, Nelson, Lancashire BB9 7DG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Kalim Hashim against the decision of Pendle Borough Council.
 - The application reference is 24/0409/HHO.
 - The development proposed is a rear kitchen extension.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect on the living conditions of the residents of 257 Manchester Road with regard to outlook.

Reasons

3. The extension would be constructed along the shared side boundary with the neighbouring property 257 Manchester Road. That property has a rear facing window and a side facing window that would be in very close proximity to the new side elevation of the extension. The proposal would also enclose the rear yard of that dwelling which provides access to the rear door. Given the limited size of the rear yard and the proximity to windows, the extension would unacceptably reduce outlook from the yard, the windows and when accessing the rear door.
 4. The proposal has been reduced in depth but given its position on the boundary, I am not satisfied that this has sufficiently reduced the harm that would be experienced. I am mindful that other properties in this terrace have relatively intimate relationships with the neighbouring building. However, although the rear 'outshots' are two storey rather than the single storey now proposed, they are also set further away across two adjoining yards. In any event, number 257 has an existing relatively open aspect above the dividing wall. This situation is not therefore comparable. I must consider the proposal on its own merits and in light of the current situation. I also consider that the proposal would increase shading in the late afternoon and evening which adds to my concerns.
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5. As the proposal would result in unacceptable harm to the living conditions of residents of 257 Manchester Road with regard to outlook, it would be contrary to policy ENV 2 of the Pendle Local Plan Part 1: Core Strategy 2011-2030 (2015).
6. The proposal would be contrary to the requirement of paragraph 5.6 of the Design Principles: Supplementary Planning Document 2009 (SPD) that rear extensions should avoid causing overshadowing and loss of outlook; or appear unduly dominant to neighbours. I acknowledge that the extension satisfies elements of the guidelines set out in paragraph 5.7 particularly with regard to the depth of extensions. I note the appellant's view with regard to the 45 degree rule although the SPD appears to take this angle from the centre of windows. However, paragraph 5.7 is clear that these requirements are subject to the extension being appropriate in terms of relationships to other properties. I also do not consider that it should override the clear requirements of paragraph 5.6. Whilst the design, scale and detailing meet the design requirements of the SPD, it fails to satisfy its amenity requirements. I also find conflict with the National Planning Policy Framework 2024 which seeks a high standard of amenity for existing and future users.
7. The proposal does generally satisfy the requirements of the Conservation Area Design and Development Guidance: Supplementary Planning Document 2008. It would disrupt the rhythm of existing 'outshots' and result in the near total loss of the rear yard but given the character of the area and the presence of other land associated with the property, this is not a concern. The proposal would not result in harm to the conservation area.
8. The appellant advises that the planning officer had indicated that a three metres deep extension would be acceptable. I do not have this information and it was clearly not a formal determination. I have also not been provided with a lawful development certificate to demonstrate that such an extension would be lawful. In any event, whilst a three metres deep extension would be harmful, it would at least retain some openness to the adjoining yard. Whilst I have had regard to the appellant's views as to the relative impacts of differing depth extensions, I am not persuaded that this represents a good reason for accepting this proposal which would have a greater impact and would be more harmful.
9. In conclusion, although of an appropriate design, materials and form, the proposal, given the particular circumstances of these properties, would unacceptably harm the living conditions of the neighbouring residents. The matters put forward, including the more functional space that would result in the new kitchen and the lack of objections, do not outweigh my concerns. I therefore dismiss the appeal.

Peter Eggleton

INSPECTOR