



Appeal Decision

Site visit made on 7 August 2018

by **Michael Moffoot DipTP MRTPI DipMgt**

an Inspector appointed by the Secretary of State

Decision date: 13 August 2018

Appeal Ref: APP/Z4718/D/18/3201362

34 Marsden Lane, Marsden, Huddersfield HD7 6AF

- 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 Howard Selina against the decision of Kirklees Metropolitan Borough Council.
 - The application Ref: 2017/62/93051/W, dated 1 September 2017, was refused by notice dated 6 March 2018.
 - The development proposed is balcony enclosure to form conservatory.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue in this case is the effect of the proposed development on the character and appearance of the area.

Reasons

3. The appeal site comprises a mid-terrace, back-to-back, three-storey dwelling of stone construction under a slate roof. The existing first floor balcony to the front elevation of the property would be adapted and extended to provide a glazed conservatory constructed of powder coated aluminium with a slate-clad lean-to roof containing rooflights.
4. The character of the terrace derives in large part from the uniformity of dwellings and a general consistency of materials and arrangement of windows. A number of properties feature open balconies at first floor level. However, they are of visually lightweight construction and do not unduly compromise the linear form and rhythm of the terrace notwithstanding that No 38 includes enclosed accommodation beneath its balcony. I saw no similar extensions to properties in the terrace and none have been drawn to my attention.
5. Despite its predominantly glazed nature the proposed conservatory would be a significant addition to the dwelling. Although trees and other foliage within and on the boundary of the property would filter views of the extension it would be visible from localised viewpoints on the canal and adjacent towpath. From these vantage points it would be perceived as a visually assertive and discordant addition to the dwelling and wholly out of keeping with the linear uniformity of this traditional and attractive terrace, and particularly so during autumn and winter months when the greenery thins out.

6. Reference is made to the wider context of the site, including a social club to the south and modern bungalows to the north. The club is a substantial structure somewhat at odds with its surroundings whilst the bungalows are clearly modern additions to built development in the area and sit comfortably within their residential setting. These buildings do not individually or collectively compromise the character of the terrace of which the appeal property forms part, and do not therefore provide justification for the proposal.
7. For these reasons, I conclude that the proposed development would severely harm the character and appearance of the area. As such, it would conflict with those parts of saved Policies D2, BE1, BE2, BE13 and BE14 of the *Kirklees Unitary Development Plan* (2007) which seek to protect visual amenity and the character of an area and retain local identity by requiring proposals to be visually attractive and respect surrounding development in terms of design, scale and mass.

Other Matters

8. Reference is made to a "similar structure" at Peel One in the village's conservation area. However, I have not been provided with the location and details of this development or the balance of considerations which informed the decision to grant permission. Accordingly, I have confined my assessment to the planning merits of the case before me.
9. The proposal would not materially diminish daylight and sunlight to adjoining properties and concerns regarding overlooking of them could be largely addressed by the use of obscure glazing to the flank sides of the conservatory.

Conclusion

10. For the reasons set out above and having regard to all other matters raised, including some local support, I conclude that the proposal is unacceptable and the appeal should fail.

Michael Moffoot

Inspector



Appeal Decision

Site visit made on 20 June 2018

by W Johnson BA (Hons) DipTP DipUDR MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 August 2018

Appeal Ref: APP/Z4718/D/18/3199106

220 Birkby Hall Road, Birkby, Huddersfield, HD2 2BP

- 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 Sultan Mahmood against the decision of Kirklees Metropolitan Borough Council.
 - The application Ref 2017/62/93708/W, dated 25 October 2017, was refused by notice dated 25 January 2018.
 - The development proposed is a first floor extension and porch, raising height of existing conservatory to form first floor extension, alterations to existing garage to additional accommodation and new roof over swimming pool.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The Council has referred to policies contained within the emerging Kirklees Local Plan which, although it is in the process of examination, has yet to be adopted by the Council. Consequently, the weight that I can attach to the policies contained within the emerging plan is limited and the statutory development plan for the purposes of the determination of this appeal remains as the Kirklees Unitary Development Plan (2007).
3. The Revised National Planning Policy Framework (the Framework) was published in July 2018, after the appeal was lodged. Both main parties were given the opportunity to comment on any relevant implications for the appeal. I have had regard to the Revised Framework, and the subsequent comments submitted by the appellant on 8 August 2018, in reaching my decision.

Main Issues

4. The main issues in this appeal are:
 - the effect on the character and appearance of the appeal dwelling and its surrounding area; and,
 - the effect on the living conditions of neighbouring occupiers, and with particular regard to possible implications for privacy and outlook.

Reasons

Character and appearance

5. The appeal property comprises a detached house, located to the rear of 218 Birkby Hall Road and 218a Birkby Hall Road. The host dwelling is linked by its garage to 222 Birkby Hall Road. The property has benefitted from previous extensions, such as a rear conservatory, single storey rear extension, and indoor swimming pool with a glazed link. The property cannot be easily viewed from the pavement on Birkby Hall Road. Additionally, limited views of the rear elevation of the appeal dwelling can be seen on the footpath in front of 3 Rossefield Avenue.
6. Both parties have brought to my attention an earlier planning application (2016/62/91394/W), which was granted on 31 March 2017. This application is very similar to the appeal scheme. Both parties confirm the main difference between the approved application and the appeal scheme is the introduction of the first floor rear extension to extend the existing bedrooms.
7. In the current appeal scheme, the first floor rear extension would be sited where the conservatory is located, and above the existing kitchen extension. The scheme would not extend beyond the existing rear building line of the kitchen or conservatory into the garden, and would therefore be contained within the existing footprint of the dwelling. I consider that the addition of the first floor rear extension, in conjunction with the other elements of the scheme, such as the 2-storey side extension, replacement single storey rear extension, conversion of the garage, replacement of the swimming pool roof, and a new entrance porch, given the size of the dwelling and the size of the plot in which it is sited would not amount to a disproportionate addition to the host dwelling. The appeal scheme could be comfortably accommodated on the property without it becoming an incongruous feature.
8. Replicating design features present on the host dwelling, such as its fenestration and materials would be sufficient to allow it to assimilate, and compliment the appearance of the host dwelling. The scheme would still preserve the character and appearance of the host dwelling as the addition of a first floor extension in conjunction with the other extensions and alterations would be contained within the existing footprint of the dwelling. The roofs over the first floor rear extension would be hipped, which in turn would help to visually reduce the scale of the extension. This factor in conjunction with the amount of outside space being retained would be sufficient to prevent the host dwelling being over-developed.
9. There is no doubt that the scheme would result in the host dwelling being substantially extended, but for the reasons above, I do not consider that the extensions proposed are excessive in the context of the character and appearance of the existing house and its plot. The dwelling would not have a cramped appearance, as the plot size would still be sufficient to accommodate the additional development, with the outside space being unaltered. Accordingly, given that the host dwelling is not a frontage property and is located to the rear of existing dwellings, the scheme would not have any meaningful visual effect to the detriment of the surrounding area.
10. For all of these reasons it is thus concluded that the proposed development would not harm the character and appearance of the appeal dwelling and the

surrounding area, and therefore accords with Policy D2(ii, vi) which, amongst other things, requires proposals not to prejudice visual amenity or the character of the surroundings, and avoid over-development; Policy BE1(ii), which requires development to be visually attractive, and Policy BE2(i), which requires new development to be in keeping with its surroundings of the Kirklees Unitary Development Plan (Revised) 2007.

11. The proposal would also be consistent with paragraph 127 of the Framework, which, amongst other things, seeks to ensure that developments are visually attractive and are sympathetic to local character.

Living conditions

12. The Council has only raised this issue in respect of the first floor rear extension, and its effect on the living conditions of the occupiers of 3 Rossefield Avenue. I agree that none of the other elements of the scheme would harm the living conditions of neighbouring occupiers, or that any other neighbouring occupiers would be adversely affected by the scheme.
13. No 3 is a bungalow, and is sited on lower ground, when compared against the land levels of the host dwelling. The host dwelling does not have a particularly deep garden, and as a result the distance between the host dwelling and its rear boundary with No 3 is relatively short. The elevated position of the extended host dwelling compared to No3, would only accentuate the harmful effect of the scheme on the occupiers of No 3 by reason of its scale and massing.
14. The first floor element of the scheme would dominate the rear section of the neighbouring domestic garden, thus adding an excessive amount of development to the host dwelling. The resultant scale and massing of the extension would create a tall structure in close proximity to No 3, which would be intrusive and result in a significant harmful effect on the ability of neighbouring occupiers to enjoy their home. Additionally, due to its close proximity and elevated position, the proposal would overlook No 3, and in particular its garden. The ability to overlook this area of garden would result in a significant loss of privacy to the occupiers of this property.
15. For all of these reasons, I therefore conclude that the proposal would unacceptably harm the living conditions of neighbouring occupiers, with particular regard to privacy and dominance. This would conflict with the overall amenity and design aims of Policy D2(v) and Policy BE14 of the Kirklees Unitary Development Plan (Revised) 2007 which, amongst other things, seeks not to prejudice residential amenity, and to permit rear extensions that do not exceed 3m in overall projection.
16. Additionally, the proposal is not consistent with paragraph 127 of the Framework which, amongst other things, seeks a high standard of amenity for all existing and future users.

Other Matters

17. I have also had regard to various other matters raised by the appellant, including his need to develop a family home, energy efficiency, local demand, national space standards and disabled access/facilities, but on the evidence before me this does not outweigh the harm identified. He has also expressed

concern about the way that the Council handled the application, but this does not affect the planning merits of the case.

Conclusion

18. Whilst I have accepted that this scheme would not result in an adverse effect on character and appearance, I have also concluded that the proposal would have a detrimental effect on the living conditions of neighbouring occupiers. Therefore, as material considerations do not indicate that I should conclude other than in accordance with the Development Plan taken as a whole, the appeal is dismissed.

Wayne Johnson

INSPECTOR