

REPORT FOR NOTING

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| DECISION OF: | PLANNING CONTROL COMMITTEE |
| DATE: | 21 February 2023 |
| SUBJECT: | PLANNING APPEALS |
| REPORT FROM: | HEAD OF DEVELOPMENT MANAGEMENT |
| CONTACT OFFICER: | DAVID MARNO |
| TYPE OF DECISION: | COUNCIL |
| FREEDOM OF INFORMATION/STATUS: | This paper is within the public domain |
| SUMMARY: | <p>Planning Appeals:</p> <ul style="list-style-type: none"> - Lodged - Determined <p>Enforcement Appeals</p> <ul style="list-style-type: none"> - Lodged - Determined |
| OPTIONS & RECOMMENDED OPTION | The Committee is recommended to the note the report and appendices |
| IMPLICATIONS: | |
| Corporate Aims/Policy Framework: | Do the proposals accord with the Policy Framework? Yes |
| Statement by the S151 Officer: Financial Implications and Risk Considerations: | Executive Director of Resources to advise regarding risk management |
| Statement by Executive Director of Resources: | N/A |
| Equality/Diversity implications: | No |
| Considered by Monitoring Officer: | N/A |
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| Wards Affected: | All listed |
| Scrutiny Interest: | N/A |

TRACKING/PROCESS

DIRECTOR:

| Chief Executive/ Strategic Leadership Team | Executive Member/Chair | Ward Members | Partners |
|--|---------------------------|--------------|----------|
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| Scrutiny Committee | Committee | Council | |
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1.0 BACKGROUND

This is a monthly report to the Committee of the Planning Appeals lodged against decisions of the authority and against Enforcement Notices served and those that have been subsequently determined by the Planning Inspectorate.

Attached to the report are the Inspectors Decisions and a verbal report will be presented to the Committee on the implications of the decisions on the Appeals that were upheld.

2.0 CONCLUSION

That the item be noted.

List of Background Papers:-

Contact Details:-

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**Planning Appeals Decided
between 16/01/2023 and 12/02/2023**



Application No.: 68103/FUL

Decision level: DEL

Recommended Decision: Refuse

Applicant: Mr Howarth

Location: 29 Chestnut Avenue, Tottington, Bury, BL8 3EE

Proposal: Two storey extension at rear; First floor extension at side

Appeal Decision: Dismissed

Date: 26/01/2023

Appeal type: Written Representations



Appeal Decision

Site visit made on 9 January 2023

by **L Wilson BA (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 26 January 2023

Appeal Ref: APP/T4210/D/22/3306984

29 Chestnut Avenue, Tottington, Bury BL8 3EE

- 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 Andrew Howarth against the decision of Bury Metropolitan Borough Council.
 - The application Ref 68103, dated 16 February 2022, was refused by notice dated 24 June 2022.
 - The development proposed was originally described as a 2 storey rear extension to existing property, with the addition of a second floor on top of a side single storey elevation.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appellant has submitted an alternative scheme with their appeal submission to address the reasons for refusal. Generally, proposals cannot be amended through the appeal process. The appeal process should not be used to evolve a scheme and it is important that what is considered by myself is essentially what was considered by the local planning authority, and on which interested people's views were sought. Where an appeal is made it is made against the decision of the Council and based on the plans submitted at the application stage.
3. The proposed amendments have not been subject to any public consultation and are not insignificant. Furthermore, as is discussed in more detail below, the drawings submitted with the planning application are of poor quality and inconsistent. As a result, neighbouring occupiers may have found it difficult to fully understand what was being proposed.
4. To consider an appeal on the basis of the amended proposal without the ability to undertake a revised consultation exercise would be unfair and could prejudice the position of those who may wish to comment. Consequently, having regard to the Wheatcroft Principles, I have determined the appeal on the basis of the plans originally submitted to the Council. Any amended proposal would be a matter for the Council to consider.

Main Issues

5. The main issues are the effect of the proposed extension on:
 - the living conditions of the occupants of 27 Chestnut Avenue, with particular reference to outlook; and

- the character and appearance of the host dwelling and surrounding area.

Reasons

Living conditions

6. No 29 is a two-storey dwelling situated within a residential area. The dwelling has a single storey element to the side and there is a large outbuilding situated at the rear of the garden. The appellant highlights that the Council has not raised concern in relation to privacy, loss of light, overlooking, No 31 or the 45 degree line.
7. No 27 is adjacent to the appeal site and is sited forward of the host dwelling. No 27 has a single storey garage directly adjacent to No 29's single storey element, as well as two outbuildings adjacent to No 29's garden which occupy a large proportion of the garden. The boundary treatment between Nos 27 and 29 is low which enables direct views between the gardens.
8. The drawings are inconsistent and of poor quality with little detail which makes it difficult to fully assess the proposal's impact. In any event, the proposed site plan shows that the two-storey extension would have a large projection along the shared boundary beyond the rear elevation of No 27. The Council state in their officer's report that the proposed site plan shows that the projection would be 9 metres.
9. The existing buildings within No 27's garden would to a degree screen the proposed extension. However, there is no guarantee that the outbuildings would be retained. Nonetheless, the extension would be clearly visible as it would be two-storey in height. It would be a dominant addition which would have an overbearing effect on the outlook from particularly the garden of No 27 because of the proposed depth and height of the extension which would be adjacent to the common boundary. The gardens are not of a size to accommodate the proposed extension without causing harm to the occupiers of No 27.
10. For these reasons, the proposed extension would have an unacceptable effect on the living conditions of the occupants of 27 Chestnut Avenue, with particular reference to outlook. Consequently, it would conflict with Policy H2/3 of the Bury Unitary Development Plan (1997) (UDP). This states that applications for house extensions will be considered with regard to the amenity of adjacent properties.
11. The scheme would also conflict with the Supplementary Planning Document 6: Alterations and Extensions to Residential Properties (2004, updated 2010) (SPD). This states that the separation between aspects of dwellings is an important consideration in order to avoid overbearing relationships.

Character and appearance

12. The second reason for refusal does not specifically refer to the character and appearance of the host dwelling and surrounding area. However, it is clear from reading the officer's report that this reason for refusal relates to concerns relating to visual amenity.

13. The proposed extension would not result in the appearance of uncharacteristic terracing. This is because No 29 is set back from No 27, and I recognise that the Council has not specifically raised concern in this regard.
14. As stated above, the drawings are inconsistent and of poor quality with little detail. Therefore, it is not possible to fully assess the proposal's effect on the character and appearance of the host building and surrounding area. The drawings are inadequate to ensure that the proposed extension complements the original building and does not have a detrimental impact on the character and appearance of the street scene. I am also mindful that if planning permission was granted then there could be enforcement issues as it is not wholly clear what is being proposed in order to ensure that the development is carried out entirely in accordance with the approved plans.
15. For these reasons, I am not satisfied that the proposed development would have an acceptable effect on the character and appearance of the host dwelling and surrounding area. Consequently, it would conflict with Policy H2/3 of the UDP which states that applications for house extensions and alterations will be considered with regard to the size, shape, design and external appearance of the proposal, as well as the character of the property in question and the surrounding area.
16. The scheme would also conflict with the SPD which states the plans and drawings are a very important part of any application and are needed so that the Council understands the proposal. In addition, any application for a domestic extension will not normally be permitted unless the proposal achieves a high standard of design and complements the original building and does not have a detrimental impact on the character and appearance of neighbouring properties and general street-scene.

Other Matters

17. The appellant has highlighted a number of other matters. These include that side extensions and alteration are not uncommon in the local area, the extension would provide additional accommodation to meet the appellant's needs, no objection from the occupiers of No 27, compliance with parts of the National Planning Policy Framework (the Framework) and benefits of the proposal. In addition, they consider that limited weight should be given to policies contained within the UDP because it is out of date.
18. A lack of objection and compliance with parts of the Framework do not amount to a positive factor in favour of the scheme. In my view, Policy H2/3 of the UDP is broadly consistent with the Framework which promotes good design and seeks to ensure developments are sympathetic to local character and create places with a high standard of amenity. Accordingly, I find no significant conflict between Policy H2/3 and the Framework. The other matters raised, and benefits of the proposal, do not outweigh the harm identified above.

Conclusion

19. For the reasons given above, having considered the development plan as a whole, and all other material considerations, the appeal does not succeed.

L Wilson
INSPECTOR