



Appeal Decision

Site visit made on 27 February 2018

by **Gareth Wildgoose BSc (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 13 March 2018

Appeal Ref: APP/Z4718/D/17/3189987

120 Savile Road, Savile Town, Dewsbury WF12 9LP

- 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 Nazir Musa against the decision of Kirklees Metropolitan Borough Council.
 - The application Ref 2017/62/91900/E, dated 5 June 2017, was refused by notice dated 2 October 2017.
 - The development proposed is front and rear dormers.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The Council's evidence makes reference to Policies PLP1, PLP2, PLP21 and PLP24 of the Emerging Kirklees Local Plan publication version which was submitted for examination in April 2017. However, the Emerging Local Plan has yet to be adopted and there is no evidence before me as to whether the policies are subject to any unresolved objections. Those circumstances limit the weight I can give to the policies of the Emerging Kirklees Local Plan when determining this appeal. I have, therefore, determined the appeal principally on the basis of the saved policies of the Kirklees Unitary Development Plan (UDP), adopted March 1999, taking account of the National Planning Policy Framework (the Framework).

Main Issues

3. The main issues of this appeal are:
 - the effect on the living conditions of occupiers of neighbouring properties, with particular regard to 11 Warren Street (No 11) and matters of privacy, and;
 - the effect on the character and appearance of the host building and the area.

Reasons

Living conditions - neighbours

4. The appeal site consists of 120 Savile Road (No 120), a two storey semi-detached property located relatively close to a junction with Warren Street. No 120 has an existing single storey rear extension and a two storey side

- extension with planning permission that is under construction. The appeal proposal relates to front and rear dormers proposed within the roof of the side extension which were also under construction at the time of my visit.
5. No 11 is a two storey property at the rear which faces Warren Street. The rear building lines of the appeal property and No 11 are at differing angles with an unusually close relationship between rear elevations due to the varied alignment of Savile Road and Warren Street. The separation distance has been further eroded by two storey and single storey rear extensions to No 11 and the side extension to the appeal property that is under construction. There is no evidence before me as to the specific circumstances which led to the Council previously granting planning permission for the two storey side extension at No 120. Furthermore, I am not aware of the planning status and circumstances that led to the existing two storey and single storey rear extensions and a rear dormer at No 11. Nonetheless, the cumulative effect of the close relationship of the properties and respective extensions has resulted in some overlooking between habitable windows in the rear elevations of the properties and a loss of privacy to rear amenity areas.
 6. Notwithstanding the above, the reduced levels of privacy currently experienced by occupiers of No 120 and No 11 does not justify exacerbating overlooking of habitable rooms and private amenity areas. Although the siting of the rear dormer would incorporate a set back from the rear building line of No 120 that would prevent any overbearing effect, its elevated position would increase the overlooking of the rear amenity area of No 11. It would also introduce opportunities for additional overlooking of windows in an existing rear dormer and at first floor level of the neighbouring property. The relationship between the respective habitable windows although slightly angled would be unacceptably close and there would be intensified overlooking of the rear amenity area, which would harm the living conditions of occupiers of No 11 through an increased loss of privacy.
 7. In contrast, the proposed front dormer faces towards playing fields on the opposite side of Savile Road and would not affect the habitable windows of properties nearby. As a consequence, the front dormer would not harm the living conditions of occupiers of neighbouring properties. However, the absence of concern in that respect is a neutral factor and does not override the harm identified in terms of the rear dormer. The two elements of the proposal are not severable as both dormers relate to roofspace accommodation within the two storey side extension that is under construction.
 8. In reaching the above findings, I have considered whether conditions could overcome the harm I have identified with respect to the rear dormer in terms of privacy and overlooking. However, it would not be reasonable to require installation of obscure glazing and a restriction upon the opening mechanism of a dormer window intended to serve a bedroom as such an approach could have an adverse effect upon the living environment for future occupiers.
 9. I conclude that the development would result in significant harm to the living conditions of occupiers of No 11 Warren Street with respect to overlooking and a loss of privacy. The proposal would, therefore, conflict with Saved Policies D2 and BE14 of the UDP which seek to protect residential amenity. The policies are consistent with the Framework which seeks a good standard of amenity for all existing and future occupants of land and buildings.

Character and appearance

10. The appeal property has a pitched roof design with a side gable end. The ongoing construction of a two storey side extension of considerable width with consistent front building line and roof form has elongated the frontage of No 120. The immediate surroundings have a variety of property styles, scale and proportions including a predominance of semi-detached properties and terraced rows, together with the intermittent presence of detached dwellings. When taking account of the side extension, the semi-detached pair has proportions that are not dissimilar to some terraced rows in the wider area.
11. There are numerous examples of front dormers and other roof alterations visible along Savile Road, Warren Street and Headfield Road, including a front dormer with a similar front gable design, scale, proportions and materials at No 144 Savile Road. In that context and taking account of the varied character of surrounding properties, the front dormer would be viewed as a complementary addition to the area. Furthermore, it would be subservient to the character and appearance of the host building given that its siting, scale and proportions would assimilate with the neighbouring terraced rows where front dormers are an intermittent feature.
12. In reaching the above findings, I have taken into account that the proposed front dormer does not appear to meet the requirements of Saved Policy BE15 of the UDP in terms of its proximity to the gutter line and the ridge of the roof, and in so far as it is not centrally placed. However, in the particular circumstances of the property and its surroundings, I have found that it would not harm the character and appearance of the host building and the area.
13. The Council have not expressed any specific concern with respect to the siting, design, scale and proportions of the rear dormer. Based upon the evidence before me and my observation of the site and its surroundings, I have no reason to take a different view. Rear dormers of varying design, scale, proportions and materials are a common feature of the locality and therefore, the proposal would not appear prominent, dominant or incongruous within the street scenes of Savile Road and Warren Street where it would be visible from limited public vantage points.
14. I conclude that the development would not have an unacceptable impact upon the character and appearance of the host building or the area. The proposal, therefore, does not conflict with Saved Policies D2, BE1 and BE13 of the UDP in that respect. When taken together the policies, amongst other things, seek good quality design, a sense of local identity and no prejudice to the character of the surroundings, including with respect to materials, window openings, roof styles and architectural detailing. The policies are consistent with the design objectives of the Framework. In the particular circumstances of this case, the conflict with Saved Policy BE15 of the UDP is not a decisive factor as it is outweighed by the absence of harm to the character and appearance of the host building and the area.

Other Matters

15. The appellant's concerns in terms of the Council's approach to pre-application discussions and when determining the application are not influential matters as I have considered the appeal proposal on its merits. The appeal relates to an application for planning permission which was refused by the Council. In that

regard, the works undertaken to date without planning permission were at the appellant's own risk. The outcome of this appeal does not obligate enforcement action nor does it preclude the possibility of a revised proposal, which would necessarily be considered by the local planning authority in the first instance. Consequently, the financial investment made as part of the construction of the dormers and the possible costs associated with removal of the dormers are not influential factors when determining this appeal.

Conclusion

16. I have found no harm to the character and appearance of the host building and the area. However, there would be significant harm with respect to the effect of the proposal on the living conditions of occupiers of neighbouring properties, specifically No 11 Warren Street in terms of a loss of privacy, which is an overriding factor that reflects conflict with the development plan and the Framework when taken as a whole.
17. For those reasons and taking all other matters into consideration, I conclude that this appeal should be dismissed.

Gareth Wildgoose

INSPECTOR