



Appeal Decision

Site visit made on 25 April 2024

by C Rafferty LLB (Hons), Solicitor

an Inspector appointed by the Secretary of State

Decision date: 26 April 2024

Appeal Ref: APP/T4210/W/23/3330962

Land adjacent to 73 Higher Lane, Whitefield M45 7EZ

- 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 Charles Ridley (Beech House Developments Ltd) against the decision of Bury Metropolitan Borough Council.
 - The application Ref 69725, dated 5 June 2023, was refused by notice dated 3 August 2023.
 - The development proposed is the erection of one detached house to be accessed from Higher Lane (amended house type to planning permission 68474)
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Since the determination of this application, the Government published a revised National Planning Policy Framework (the Framework) on 19 December 2023. Those parts of the Framework most relevant to this appeal have not been amended. As a result, I consider that there is no requirement for me to seek further submissions on the revised Framework, and I am satisfied that no party's interests have been prejudiced by my taking this approach.

Main Issue

3. The main issues are the effect of the proposed development on: the character and appearance of the surrounding area; and the living conditions of the occupiers of No. 69 Higher Lane, with regard to outlook and privacy.

Reasons

Character and appearance

4. The site is land off Higher Lane to the north of the single storey dwelling at No. 69 Higher Lane, which is accessed via a long driveway abutting the eastern boundary of the site. Additional properties are located to the west, including the Grade II listed building of No. 73 Higher Lane. Planning permission has previously been granted for a detached two-storey dwelling at the site, which would feature a catslide roof on its eastern side.
5. The proposal seeks permission for a dwelling of the same footprint and siting to that approved, but with a different design, incorporating a continuous double pitched roof with gables. While it would have a comparable ridge height it would therefore introduce additional bulk, resulting in built form at roof level

immediately abutting the driveway to No. 69 and extending in front of the front elevation of that dwelling to a greater extent than the approved scheme.

6. The residential surrounds of the site feature a range of dwelling designs, with numerous two storey double pitched properties. However, even acknowledging surrounding examples of development set back from Higher Lane behind other properties, there nevertheless remains an overall legibility of the dwellings on this side of the road, and a sense of spaciousness among the neighbouring plots alongside which the proposal would primarily be experienced.
7. The approved dwelling at the site ensures that this sense of character would be retained. The catslide roof would limit the overall visual obstruction of the dwelling at No. 69 Higher Lane and, in providing an offset of upper storey built form from the eastern boundary of the site, would retain an sense of spaciousness in the surrounds. Overall, it would read as a well thought design that integrates with, and respects, its immediate surrounds.
8. By contrast, the proposal would have an increased prominence due to the additional upper bulk proposed. Even acknowledging the trees along the boundary with No. 69 and the fencing proposed, in further obscuring No. 69 due to its roof design the proposal would appear as an awkward addition, reducing the legibility of this immediate section of the streetscene and failing to successfully respond to existing surrounding development. In addition, even with the offset of the proposal from the western boundary of the site and its set back from Higher Lane, the placement of the proposed upper storey built form relative to both No. 69 and the eastern boundary of the site would nevertheless create a cramped appearance at this section of the streetscene.
9. The proposal would have a symmetrical appearance and its height, design and materials would be comparable to surrounding dwellings. Nevertheless, for the site specific reasons given, I find that its increased prominence at the site when compared with the approved dwelling, particularly in relation to its placement relative to the dwelling of No. 69 Higher Lane, would be detrimental to the immediate character and appearance.
10. For the reasons given, the proposal would therefore have a significant adverse effect on the character and appearance of the area. As such, it would fail to comply with Policies EN1/2 and H2/1 of the Bury Unitary Development Plan 1997 (the UDP) and Development Control Policy Guidance Note 16 Design and Layout of New Development in Bury (the DCPGN) insofar as they seek to ensure development does not have an adverse effect on character and makes a positive contribution to the form and quality of the area, with regard to: its scale, density and layout; its relationship to the surrounding area; and the position and proximity of neighbouring properties.

Living Conditions

11. The proposal would extend in front of the facing elevation of No. 69 Higher Lane to a greater extent than the approved scheme, projecting in front of a first floor dormer window that facing the site. The appellant asserts that this window serves a bathroom rather than habitable rooms. There is nothing substantive before me to suggest that this would not be the case such that the additional built form relative to the location of this window would not result in detrimental effects to the outlook from a habitable room. In addition, on the evidence, this window is required to be of obscured glazing.

12. Views of the proposal would be possible from the other first floor windows at No. 69 when looking in the direction of the site. However, due to the positioning of the dwelling the main outlook from these rooms would remain unchanged, providing unobstructed views down the driveway associated with the property. Accordingly, there would be no significant harm to the outlook experienced from these spaces. In addition, due to the proposed 2 metre close boarded fence and the presence of existing trees to the rear of the appeal site, views of the additional built form of the proposal would be largely screened from the front garden space of No. 69.
13. I acknowledge that the proposal would result in additional built form through the introduction of a 2 storey gable end abutting the boundary of the appeal site with the driveway of No. 69. From this location this additional bulk would be much more prominent when compared with the catslide roof of the approved dwelling. However, given the long nature of this driveway, and its primary use as an access point to No. 69 rather than dedicated amenity space, I do not consider that the additional built form at a limited section of this driveway would appear unduly overbearing or enclosing.
14. For similar reasons, I do not find that the proposal would result in unacceptable impacts on the living conditions of the occupiers of No. 69 Higher Lane with regard to privacy. The intervening distance between the proposal and this property, in addition to the screening provided along the boundary by the existing trees, would ensure that no undue overlooking of the habitable rooms or amenity space at No. 69 would occur. In addition, the main parties agree that the proposed rooflights, whilst facing across the rear garden of the site, would not have a serious impact on overlooking given their distance from the boundary. Based on my observations, I have no reason to disagree.
15. For the reasons given, the proposal would not have a significant adverse effect on the living conditions of occupiers of No. 69 Higher Lane with regard to outlook and privacy. As such, there would be no conflict with Policy H2/1 of the UDP and the DCPGN insofar as they seek to ensure development makes a positive contribution to the form and quality of the area with regard to the impact of developments on residential amenity.

Other Matters

16. With regard to the listed building of No. 73 Higher Lane to the west of the site, the main parties agree that, as the proposed changes to the approved dwelling are located on the eastern boundary of the site, there would be no resulting significant impact on the setting of this heritage asset. Based on my observations, I have no reason to disagree.

Conclusion

17. I have found that the proposal would not result in significant adverse harm to the living conditions of occupiers of No. 69 Higher Lane with regard to outlook or privacy. This represents a lack of harm, neutral in the planning balance. Even when taken with the other matters outlined above, this would not outweigh the harm identified to the character and appearance of the area.
18. For the reasons given, the proposal would not accord with the development plan when taken as a whole. There are no material considerations that indicate the

appeal should be determined other than in accordance with the development plan. I therefore conclude that the appeal should be dismissed.

C Rafferty

INSPECTOR