



Appeal Decision

Site visit made on 8 July 2025

by **L Clark BA(Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 30th July 2025

Appeal Ref: APP/W0734/W/25/3364178

99 York Road, Middlesbrough TS5 6LJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 (as amended) for the development of land without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Mr Mansour against the decision of Middlesbrough Borough Council.
- The application Ref is 25/0013/VAR.
- The application sought planning permission for porch to front, two roof lights to rear and retrospective removal of chimney without complying with a condition attached to planning permission Ref 23/0259/FUL, dated 29 June 2023.
- The condition in dispute is No 3 which states that: The development hereby approved shall be carried out in complete accordance with the plans and specifications detailed below and shall relate to no other plans: a) Proposed plans 002 Rev A, received 19 June 2023 b) Location plan 003, received 9 May 2023 c) Site plan 004, received 16 May 2023.
- The reasons given for the condition is: To ensure a satisfactory form of development and for the avoidance of doubt.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. It was apparent during my site visit that the construction on site had commenced, and the porch was substantially complete. Any breaches of planning control do not fall within my assessment of the appeal scheme, which has been decided on the basis of the existing and proposed plans that were submitted with the planning application and considered and consulted upon by the Council.
3. The appellant has stated that the larger porch and door position now complies with Building Regulations and would assist in enabling wheelchair access to the property for an occupant or visitor, and an enlarged area where shoes can be removed in accordance with the Muslim faith and traditions. In accordance with the Public Sector Equality Duty (PSED), I have taken this into account in determining this appeal.
4. The Council considered it necessary that I visit the neighbouring property 101 York Road (No 101), to assess the impact of the porch on the living conditions of its occupants. However, as the Council stated that the front door and small window to the front of No 101 relate to a hallway, and as I was able to see the porch and its relationship with the bay window to No 101 from the pavement, I did not require access to the property and undertook my visit unaccompanied.
5. There is dispute between the parties with regard to the overall height of the porch. I note that the appellant contends that the height was reduced during the course of the planning application to vary the condition, from 3.16 metres to 3 metres;

however, the Plan in Appendix E omits the overall height of the porch. I acknowledge the Proposed Front Elevation that there is a change to the roof; however, it is unclear whether there has been a lowering of the overall height. The appellant's contention that the overall height had been reduced is therefore not supported by demonstrable evidence. I have taken the overall height to be approximately 3.15 metres as stated by the Council.

Background and Main Issues

6. In 2023 planning permission was granted, subject to a number of conditions, for a porch to the front, two roof lights to the rear and retrospective removal of the chimney. The planning permission included condition 3, which specified the approved plans. The proposal seeks the removal of condition 3 and its replacement with a condition specifying the plans that reflect an amended design to allow for an enlarged overall footprint, a repositioned entrance door from the side to the front and the reduction in the size of the window to the front.
7. Whilst the original application relates to a porch to the front, two roof lights to the rear and the removal of a chimney, the evidence before me indicates that the application seeks to vary only the porch, and I have no reason to take a different view. To my mind, the Council does not dispute the repositioning of the door, and from observations on site, I see no reason to disagree. The dispute between the parties relates to the design and size of the porch, and this shall be the focus of my assessment.
8. The main issues are the effect that varying the condition would have on a) the character and appearance of the host property and the immediate surroundings, and b) the living conditions of the existing occupiers within No 101, with particular regard to daylight, sunlight and outlook.

Reasons

Character and appearance

9. The appeal property (No 99) is a modest-sized two-storey, semi-detached property situated within a predominantly residential area. Its adjoining property (No 101) has bay windows to the ground and first floor set on the opposing sides to No 99. Bay windows of varying designs are also present to the majority of other properties on York Road. The presence of these features creates a visual balance to the semi-detached properties and a rhythm within the immediate surroundings.
10. Middlesbrough's Urban Design Supplementary Planning Document (SPD) provides guidance on, amongst other matters, porches. It acknowledges that the addition of a porch can substantially affect the character of a street and states that where a porch requires planning permission, it should meet design criteria a) to d).
11. The porch has been constructed measuring approximately 2.45 metres in width by approximately 1.75 metres in projection. Its width now extends closer to the bay window of the host property, and its projection is now further from the front elevation.
12. The appellant does not dispute that the floor area exceeds that identified in Criterion d) of the SPD, or that the porch has no architectural merit. Whilst the approved porch may have exceeded the building line set by the bay windows, and the current porch is set approximately 2.4m from the pavement, even if the overall

height was 3 metres, the footprint and therefore its overall massing is significantly larger.

13. The porch dominates the front elevation of No 99 and disrupts the balance between Nos 99 and 101. Its presence also erodes the rhythm of the front elevations to properties within the immediate surroundings.
14. For the reasons given above, I find that varying the condition would be harmful to the character and appearance of the host property and the immediate surroundings. Accordingly, there would be conflict with Policies DC1 and CS5 of Middlesbrough Local Development Framework, Core Strategy 2008 (Local Plan). These collectively seek to ensure that development demonstrates a high quality of design in terms of, amongst other matters, character and appearance of the area and ensuring that it is well integrated with the immediate and wider context. There would also be conflict with the SPD.

Living Conditions

15. I have no substantive evidence from either party to demonstrate light levels of No 101. Notwithstanding this, the Council do not dispute that the door and window are associated with its hallway. In my mind, a hallway is not habitable accommodation and, therefore, the focus of my assessment is on its ground-floor bay window, which is likely to be habitable.
16. At the time of my site visit (late morning), whilst the sun was shining and there was very little cloud cover, the fronts of both Nos 99 and 101 were in shade. Photographs within the appellant's statement show a porch of similar dimensions to that before me. Whilst I have no date or time when these photographs were taken, they do show the front of both properties predominantly in sun, with the front door and hallway window of No 101 in shade, and some shading to the ground-floor bay window. Given the distance of the bay window from the porch, together with the orientation of No 101 to the appeal site, and without any evidence to demonstrate to the contrary, it is unlikely that the porch would significantly reduce the levels of daylight or sunlight to harm the living conditions of the existing occupants.
17. With regard to outlook, the flank wall closest to No 101 is blank and, from the evidence before me, projects further than the approved porch. I acknowledge that the porch would be visible from within No 101 when standing either in or close to the ground-floor bay window. However, given the above, together with the closest windowpane in the bay window which faces the porch being set at an oblique angle, and the bay window having two other windowpanes which provide alternative views, it is unlikely that the porch would significantly harm the outlook for the existing occupants of No 101 from within the ground floor.
18. For the above reasons, I conclude that varying the condition would not have a harmful effect on the living conditions of No 101. It is therefore acceptable in terms of daylight, sunlight and outlook, and there is no conflict with Policies DC1 and CS5 of the Local Plan. These collectively seek to ensure that the effect upon the amenities of occupiers of nearby properties is minimal after completion. There would also be no conflict with the SPD insofar as it seeks to ensure that windows of neighbouring properties do not become dominated by any extension and their daylight is not obstructed.

Other Matters

19. I note that the Council refer to the porch harming the outlook for occupants of the appeal property. Given that I am dismissing the appeal for other reasons, I have not needed to consider this matter further.
20. My attention has been drawn to several paragraphs in the Framework; however, no compelling evidence has been advanced to convince me that the approved scheme would not result in similar benefits.
21. Although my attention has been drawn to paragraph 11 of the Framework, there is no part of the appellant's case which points to policies being out of date. As such, this decision falls to be determined within a normal planning balance.
22. Whilst the porch would provide weather protection to the entrance door, and its construction is from materials that closely match those of the host property, I have nothing before me to demonstrate that this is any different to the approved scheme.
23. I note that there would have been some economic benefits during its construction; however, given that it is substantially completed, I attach limited weight to the benefit of this. Furthermore, the lack of objections or whether the appeal site is situated in a sustainable location does not equate to a lack of harm.
24. Furthermore, I understand that the appellant did not intend to undertake development that required planning permission. However, this does not outweigh the harm that I have identified above.

Planning Balance and Conclusion

25. I have had due regard to the PSED, contained in section 149 of the Equality Act 2010, which requires me to consider the need to eliminate unlawful discrimination, to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it. Protected characteristics include, amongst other matters, a person's religion.
26. I find that varying the condition could provide the opportunity to advance its aims by meeting the needs of the appellant through the repositioning of the door, the creation of a wider entrance, and providing an enlarged area where shoes can be removed in accordance with the Muslim faith and traditions. However, this is set against the need to safeguard the character and appearance of the host property and its immediate surroundings, which has not been demonstrated. In my judgement, dismissal of the appeal is a necessary and proportionate response and would not result in any violation of the rights of the individuals concerned.
27. For the reasons set out above, the proposal conflicts with the development plan taken as a whole. There are no other material considerations which indicate that the decision should be made other than in accordance with the development plan. I conclude that the appeal should be dismissed.

L Clark

INSPECTOR