

Appeal Decision

Site visit made on 19 December 2016

by Philip Lewis BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 10 January 2017

Appeal Ref: APP/N4720/D/16/3160170

43 Moor Flatts Avenue, Middleton, Leeds LS10 3SS

- 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 Mrs C Wilby against the decision of Leeds City Council.
 - The application Ref 16/01656/FU, dated 12 March 2016, was refused by notice dated 23 September 2016.
 - The development proposed was originally described as proposed 2 storey side extension, single storey rear extension, demolition of detached garage to rear garden.
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Decision

1. The appeal is allowed and planning permission is granted for a part two storey, part single storey side extension and single storey rear extension at 43 Moor Flatts Avenue, Middleton, Leeds LS10 3SS in accordance with the terms of the application, Ref 16/01656/FU, dated 12 March 2016, subject to the attached schedule of conditions.

Procedural matter

2. I have taken the description of development from the Council's decision notice for my decision above as it more succinctly describes the development than that set out on the application form.

Main Issue

3. The main issue for the appeal is the effect of the proposed development on the living conditions of the occupiers of 45 Moor Flatts Avenue with particular regard to any effect of dominance, and/or overshadowing and loss of light.

Reasons

4. The appeal relates to 43 Moor Flatts Avenue, which is a two storey, semi-detached dwelling with a hipped roof. To one side of the appeal property is situated 45 Moor Flatts Avenue which is a semi-detached bungalow. I saw at my site visit that both Nos 43 and 45 are set in from the common boundary which is marked by a close boarded timber fence with the dwellings separated by their respective driveways. I noted at my site visit that a garage at the appeal property has been demolished.
 5. The appeal scheme involves side and rear extensions. The side extension would extend out to the site boundary and would be stepped, so that the two storey element which would have a hipped roof would be set back from the site
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boundary and the front of the dwelling. The rear extension would be single storey with a mono pitched roof.

6. During my site visit I viewed the appeal site from No 45. I observed that the kitchen of No 45 has a window to the front facing the street and a door and window to the side, facing towards the flank wall of the appeal property. The appeal proposal would give rise to a single storey flank wall close to the common boundary with No 45 which would project appreciably to the rear of the dwelling, with the two storey element set back above, which would extend across most of the flank wall of the existing dwelling. Whilst there would be an increase in the mass of the appeal property, due to the setting back of the two storey element and the use of hipped and pitched roofs, the overall mass of the extensions would be broken. Additionally, the driveway of No 45 provides a separation gap between the bungalow and the proposed development. Consequently, I do not consider that the appeal scheme would give rise to dominating effects for the occupiers of no 45.
7. In respect of overshadowing and loss of light, I have taken into consideration the position, size and orientation of Nos 43 and 45, and the position of the windows and door in the flank wall of no 45. I find that there would not be an unacceptable increase in overshadowing as a result of the proposal nor an unacceptable loss of light to the kitchen of No 45, which is also served by the window to the front.
8. The appeal scheme includes two windows in the flank wall, a high level window serving a ground floor utility room and a bathroom window on the first floor. If I were minded to allow the appeal, I could impose a condition requiring the windows to be glazed in obscure glass in order to safeguard privacy of the occupiers of No 45 and of the appeal property.
9. The appeal proposal would not give rise to unacceptable effects to the living conditions of the occupiers of 45 Moor Flatts Avenue and does not conflict with saved Policy GP5 of the Leeds Unitary Development Plan which includes that proposals should seek to avoid loss of amenity. Additionally, the proposal does not conflict with the National Planning Policy Framework which in paragraph 17 includes that planning should always seek to secure a good standard of amenity for all existing and future occupants of land and buildings, or HDG2 of the Leeds Local Development Framework Householder Design Guide Supplementary Planning Document 2012 which is concerned with protecting the amenity of neighbours.

Other matters

10. I have taken into account the comments that there are no two storey extensions in the street. However, I do not find the proposed development to be unacceptable in this regard due to its size, its stepped design and the use of hipped and pitched roofs, nor out of scale with other dwellings in the street.
11. In respect of car parking, I note that the proposal would make provision for two off street parking spaces, and whilst the widened driveway may have an effect on the availability of on-street parking and the character and appearance of the area, I have not been convinced that such effects would be significantly harmful. Additionally, I note that an area for bin storage would be provided to the front of the property.

12. I have considered the comments regarding the development of the extension in close proximity to the common boundary and regarding a restrictive covenant and note the concern regarding damage to the neighbouring property during construction. However, there is not substantive evidence that the appeal proposal would give rise to such damage which would be in any event, covered under separate legal rights.

Conditions

13. I have imposed conditions in respect of timescale and specifying the approved plans as that provides certainty. I have specified a condition that the external surfaces of the extension shall match those used in the existing building in the interests of the character and appearance of the area. I have imposed conditions in respect of obscure glazing for the windows and removing permitted development rights for additional windows in the west elevation of the dwelling in order to safeguard the living conditions of neighbours.

Conclusion

14. For the reasons given above and having considered all matters raised, I conclude that the appeal should be allowed.

Philip Lewis

INSPECTOR

Schedule of conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: site location plan; floor plans; proposed elevations; proposed ground floor plan and proposed first floor plan.
- 3) The materials to be used in the construction of the external surfaces of the extension hereby approved shall match those used in the existing building.
- 4) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking or re-enacting that Order with or without modification) the windows to the side elevation facing number 45 Moor Flatts Avenue shall be glazed with obscure glass to at least level 3 obscurity and no part of those windows less than 1.7 metres above the floor of the room in which they are to be installed shall be capable of being opened and thereafter the windows shall be retained as such.
- 5) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no windows other than those expressly authorised by this permission shall be constructed on the side elevation facing number 45 Moor Flatts Avenue.