
Appeal Decision

Site visit made on 27 February 2017

by Nigel Harrison BA (Hons) MRTPI

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

Decision date: 08th March 2017

Appeal Ref: APP/N4720/D/16/3164707
16 Chatsworth Crescent, Pudsey, LS28 8LD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under a development order.
 - The appeal is made by Mrs Yasmin Parvez against the decision of Leeds City Council.
 - The application Ref: 16/05868/DHH dated 16 September 2016, was refused by notice dated 1 November 2016.
 - The development proposed is a ground floor extension to provide a bedroom and wet room for a disabled child.
-

Decision

1. The appeal is dismissed.

Reasons

2. If the proposed rear extension does not fall within the limitations set out in the *Town and Country Planning (General Permitted Development) Order 2015 (as amended)* (GPDO), it would not constitute permitted development and planning permission would be required. I shall therefore first address the issue of whether it should be regarded as permitted development.
 3. The relevant conditions set out in the GPDO state that to qualify as permitted development the extension should be single-storey, should not extend beyond the rear wall of the dwelling by more than 6.0m, should not exceed 4.0m in height, and (where within 2.0m of a boundary) the eaves should not exceed 3m. I am satisfied that the proposal meets these requirements and this is not disputed by the Council. However, where any owner or occupier of adjoining premises objects to the proposal, the GPDO states that the prior approval of the Local Planning Authority (LPA) is required as to the impact of the proposal on the amenity of any adjoining premises. The GPDO also makes it clear that the LPA shall consider the amenity of all adjoining premises, and not just those which are the subject of representations. No other issues can be considered.
 4. In this case the occupiers of an adjacent dwelling have pointed out that the extension would be so close to the boundary fence that it would be impossible to maintain the fence; also stating that the extension could not be maintained without coming onto the neighbouring property.
 5. Although not raised in the letter of objection, the Council says the proposed extension would appear overbearing and oppressive when seen from No 16, and would result in a significant degree of overshadowing. In this regard, saved Policy GP5 of the *Leeds Unitary Development Plan 2006* (UDP) says proposals should seek to avoid loss of amenity. Saved UDP Policy BD5 says
-

consideration should be given to the amenity of neighbours, including matters of privacy, daylight and sunlight penetration. Policy P10 (iii) of the *Leeds Core Strategy 2014* (CS) has similar objectives. The Councils *Householder Design Guide Supplementary Planning Document 2012* (SPD) states that proposals which harm the residential amenity of neighbours through excessive overshadowing, over-dominance and overlooking will be strongly resisted. As a general 'rule of thumb' it says single storey extensions can project 3.0m when on the common boundary.

6. Advice in the SPD should not necessarily be applied prescriptively, but should respond to site-specific circumstances. However, this is not a marginal case. At 6.0m the proposed extension would significantly increase the depth of the host dwelling very close to the boundary with No 14, and as a consequence I consider it would increase the sense of enclosure and have an unacceptably overbearing and oppressive effect when seen from the rear-facing windows of No 14 and the part of the garden close to the dwelling. This is particularly so as the two properties follow the same alignment and No 14 has not been extended to the rear. Furthermore, the position of the extension to the south west of No 14 would, in my view, lead to some overshadowing at certain times of day. This adds to my concerns. Overall, I consider that the degree of impact on the adjacent property would be so significant as to cause material harm.
7. Although a kitchen/dining room appears to be shown on the submitted sectional drawing, I understand that the primary purpose of the extension would be to provide a bedroom and wet room for the appellant's disabled daughter who suffers from Cerebral Palsy, a severe condition which affects her movement and co-ordination. Therefore, spacious accommodation on one level is needed to provide an improved living environment and quality of life to enable her to live as independently as possible within the family home. However, even though I have great sympathy with these personal circumstances, there is a balance to be struck between what is reasonable and what is excessive.
8. I fully accept that the 3.0m deep extension already permitted would not provide adequate or sufficiently flexible accommodation on one level to meet the specialist accommodation requirements in this case. However, and particularly in the light of the new tolerance for larger rear extensions set out in the revised GPDO, other solutions for a deeper extension may be possible, for example by siting it further away from the common boundary, sufficient to satisfy the Council's policies and protect the living conditions of the occupiers of the neighbouring property.
9. There would be no windows in the side elevations, and accordingly no loss of privacy arising to either neighbouring property. However, for the reasons given above, I have concluded that the proposed extension would materially harm the living conditions of the occupiers of No 14 Chatsworth Crescent with regard to outlook, overshadowing, and an overbearing form of development. As such it conflicts with saved UDP Policies GP5 and BD5, CS Policy P10, and advice in the SPD. Therefore, for the reasons given above, and taking into account all other matters raised, I conclude that the appeal should be dismissed.

Nigel Harrison

INSPECTOR