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## Appeal Decision

Site visit made on 18 April 2017

**by Graham Wyatt BA (Hons) MRTPI**

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

**Decision date: 19<sup>th</sup> May 2017**

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**Appeal Ref: APP/W2465/D/17/3170399**

**71 - 73 Kerrysdale Avenue, Leicester LE4 7GN**

- 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 Mayur Pau against the decision of Leicester City Council.
  - The application Ref 20162431, dated 7 December 2016, was refused by notice dated 6 February 2017.
  - The development proposed is a single storey extension at rear of houses and single storey detached building in rear gardens.
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### Decision

1. The appeal is allowed and planning permission is granted for a single storey extension at rear of houses and single storey detached building in rear gardens at 71 Kerrysdale Avenue, Leicester LE4 7GN in accordance with the terms of the application, Ref 20162431, dated 7 December 2016.

### Application for costs

2. An application for costs was made by Mr Mayur Pau against Leicester City Council. This application is the subject of a separate Decision.

### Preliminary Matter

3. The council has previously granted planning permission for two detached buildings on the site (application 20120183). However, this permitted development was not carried out in accordance with the approved plans resulting in the single building that is the subject of this appeal. The appeal is therefore retrospective.

### Main Issues

4. The main issues in this appeal are:
  - The impact of the development on the living conditions of the host property with regard to available amenity space.
  - The impact of the development on the living conditions of the occupiers of 69 Kerrysdale Avenue with specific regard to outlook.

### Reasons

5. The appeal property is a pair of semi-detached dwellings that are in the ownership of the appellant. The garden area to the rear spans the width of both properties with a grassed amenity area sited between the single storey

rear extension and detached outbuilding. The site is within an established residential area comprising mainly semi-detached dwellings with long rear gardens.

*Living Conditions – Host Property*

6. The appellant describes the single storey extension as a veranda, “with all sides open and covered by a polycarbonate roof.” The floor of the extension is a decked area. Notwithstanding this assessment, the development represents an extension to the main dwelling.
7. To the rear of the site is a “U” shaped single storey building. The area created within the centre of the “U” has been developed in a similar manner to the rear extension of the main property and provides a covered decked area. The building itself has a central dividing wall to create 2 separate ‘L’ shaped units.
8. The Leicester City Council Supplementary Planning Document (SPD) on Residential Amenity (adopted February 2008) requires that a 3+ bed dwelling should provide at least 100 sq. m of private amenity space. The SPD provides a definition of private amenity space and states that, “In simple terms, private amenity space is often considered as space that is outside or partly outside, where one can relax.”
9. The areas under the single storey rear extension and between the outbuildings are partly outside of the built form and are areas where people can relax. Taking the council’s definition, therefore, they can be considered to be private amenity space. The site therefore provides in excess of 100 sq. m of private amenity space for each dwelling and complies with the requirements of the SPD. In addition, the openness of the developments also leads me to conclude that they do not represent excessive coverage of the site.
10. It follows therefore, that the appeal complies with policy PS10 of the City of Leicester Local Plan (adopted January 2006) which seeks, among other things, to ensure developments can be assimilated into the site and provide residents with a quality living environment.

*Living Conditions – 69 Kerrysdale Avenue*

11. The council refer specifically to the impact on the outlook of the occupiers of 69 Kerrysdale Avenue as a result of the single storey extension. The appellant has provided a drawing with his appeal statement to demonstrate that the rear extension does not breach the 45 degree line (drawing PL 71-43 A100 Rev C refers).
12. I also noted from my site visit that a fence of some 1.8m was positioned on the boundary of the two sites. This, coupled with the open construction of the rear extension leads me to conclude that the living conditions of number 69 would not be compromised and would not therefore, be in conflict with policy PS10 of the City of Leicester Local Plan (adopted January 2006) which seeks, among other things, to ensure developments do not harm the living conditions of neighbouring properties.

*Other Matters*

13. The council also refused planning permission regarding the potential use of the detached outbuildings as a separate unit of accommodation and the resultant

noise and disturbance arising from that use that would affect the living conditions of the host and neighbouring properties. I have carefully considered the council's concerns; however the appeal before me is for an outbuilding that would be ancillary to the main dwelling. Any change of use of the building to a separate dwelling would require the submission of a planning application which would be considered by the local planning authority.

### **Conclusion**

14. Therefore, for the reasons above, and taking all other matters into account, I conclude that the appeal should be allowed and planning permission granted. As the development has already been carried out there is no requirement to impose any conditions on the planning permission.

*Graham Wyatt*

INSPECTOR