



Appeal Decision

Site visit made on 25 June 2019

by Conor Rafferty LLB (Hons), AIEMA, Solicitor (Non-practising)

Decision by Ahsan U Ghafoor BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 July 2019

Appeal Ref: APP/W2465/D/19/3227424

28 Shaftesbury Avenue, Leicester, LE4 5DQ

- 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 Gunvant Banker against the decision of Leicester City Council.
 - The application Ref 20190157 dated 24 January 2019, was refused by notice dated 11 April 2019.
 - The development proposed is the construction of a single storey rear extension, loft conversion with rear dormer, and alterations.
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Decision

1. The appeal is dismissed.

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Procedural Matters

3. The appellant has submitted revised plans for the rear extension and has stated that reduced dimensions for the dormer window are acceptable to the Council. For the avoidance of doubt, this recommendation is made on the basis of the proposal and the plans which were before the Council when it made its decision.

Main Issue

4. The main issue is the effect of the proposed development upon the living conditions of the occupants of no. 26 Shaftesbury Avenue regarding outlook, and future occupants having regard to amenity space.

Reasons for the Recommendation

5. The appeal property is a two-storey terrace. It has an existing single storey extension to the rear, which would be demolished and replaced by the proposal. No. 26 also has an existing single storey extension to the rear abutting the boundary wall between the two properties. A further tall brick wall runs along the rear boundary of both properties.
6. The proposed rear extension would be located along the boundary wall between no. 28 and 26. It would measure 6 metres from the rear wall of the host dwelling, being much longer than the existing extension at the property and projecting beyond the rear elevation of the neighbouring extension. Measuring 3.5 metres to ridge height, the proposal would also be considerably higher than the existing boundary wall. The depth of the rear extension combined with its height and proximity to the boundary would result in

a greater sense of enclosure from the rear yard of no. 26 and would therefore appear overbearing.

7. The dormer extension element of the proposal would be a large structure protruding 3.8 m from the roof plane. It would introduce a sizeable feature when viewed from the rear, which would also appear overbearing from the rear yard of no. 26, particularly when combined with the proposed rear extension. When seen from the rear yard of no. 26, the proposal would spoil the outlook and appear so overbearing as to cause harm to the living conditions of the occupiers of that dwelling, contrary to the aims of the Council's Supplementary Planning Document on Residential Amenity 2008 (the SPD).
8. The rear yard of no. 28 wraps around the current extension and kitchen in an 'L' shape and is shown on the plans as measuring 36 square metres. The parties agree that this would be reduced to 24 square metres as a result of the proposal. While the resulting yard space would partially extend across the full width of the property, it would be of a restricted depth with a long narrow area leading from the back entrance of the extension. Considering the height of the rear extension, the tall wall along the rear boundary of the property, and the proposed dormer extension, the yard would be highly enclosed which, when combined with its restricted size, would result in it having limited use.
9. The SPD states that any extension should leave sufficient garden space for general use and penetration of light and sun. It also provides recommended minimum rear garden areas of 75 square metres for a two-bedroom home, and 100 square metres for a three-bedroom home. In the context of the SPD the proposal would therefore further reduce a rear yard area that is already below the recommended minimum.
10. For the reasons given above I find that the proposed development would have a materially harmful effect upon the living conditions of the occupants of no. 26 and future occupiers of no. 28. Accordingly, the scheme would conflict with the Saved Policy PS10 of the City of Leicester Local Plan 2006 and the SPD.

Other considerations

11. Occupiers of 14 and 26 Shaftesbury Avenue have stated that they have no objections to the proposal, and the appellant has referred to other development within the vicinity. No information on the nature of these developments or their comparability to the current proposal has been provided. In any event, this proposal should be assessed on its own merits and specific circumstances.

Conclusion and Recommendation

12. Having had regard to all other matters raised, I recommend that the appeal should be dismissed.

C Rafferty

APPEAL PLANNING OFFICER

Inspector's Decision

13. I have considered all the submitted evidence and the Appeal Planning Officer's report and, on that basis, I too agree that the appeal should be dismissed.

A U Ghafoor

INSPECTOR