



Appeal Decision

Site visit made on 16 October 2019

by Graham Wraight BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 November 2019

Appeal Ref: APP/W2465/D/19/3234570

22 Barker Street, Leicester LE5 3LF

- 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 Singh against the decision of Leicester City Council.
 - The application Ref 20190634, dated 2 April 2019, was refused by notice dated 21 June 2019.
 - The development proposed is a single storey annex with bath and storage in roof space.
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Decision

1. The appeal is allowed and planning permission is granted for a single storey annex with bath and storage in roof space at 22 Barker Street, Leicester LE5 3LF in accordance with the terms of the application, Ref 20190634, dated 2 April 2019, subject to the following conditions:
 - 1) The development hereby permitted shall be carried out in accordance with the following approved plans: A200 Rev A, A201 Rev A, A202 Rev A, A203 Rev A, A204 Rev A, A205 Rev A.
 - 2) The building hereby permitted shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling known as 22 Barker Street, Leicester.

Procedural Matters

2. The development has already been undertaken, although it remains incomplete internally. I have therefore determined the appeal on that basis.
3. I have used the description of development from the planning application form in the banner header above, which differs from that on the Council's decision notice. The main difference between the descriptions is the reference to the number of storeys that the building has. However, I am satisfied that the appellant's description, read in conjunction with the plans submitted, accurately describes the scale of the development.
4. Both the Council and appellant have made reference to a planning permission (reference 20181658) granted in 2018 for a single storey annex. The primary differences between this approved development and the built development are the inclusion of a floor in the roof space, the alteration of ground levels on the site, the height of the building and the positioning of windows and doors on it. This extant permission is a viable fallback position and I have had regard to it in my assessment of this appeal.

Main Issues

5. The main issues are the effect of the development on (i) the character and appearance of the area and (ii) the living conditions of the future occupiers of the annex and of 42 Percival Street.

Reasons

Character and appearance

6. The surrounding area is characterised by terraced dwellings with back to back gardens which are uniformly arranged along a grid of roads. The appeal property sits in a corner location which has resulted in its rear garden occupying a prominent position on Barker Street. The scale of the development in the area is primarily two storey, although some dwellings, including the host dwelling, have accommodation in their roof spaces. Outbuildings are common features in rear gardens and within the street scene. Overall, the area has a densely developed urban character.
7. The Council considers that the development appears tantamount to a new dwelling and that this has caused harm to the character and appearance of the area. However, in my view, the building is adequately subservient so to appear as an outbuilding. In reaching this conclusion I note in particular that the development has a much lower eaves height and ridge height than both of the dwellings that it sits in between. This means that the building does not have a visually dominating impact and allows it to integrate well within the street scene.
8. In addition, I note the presence of an established building opposite the appeal site which is not of a dissimilar scale, positioning or visual impact to the appeal development. This further enforces my conclusion that the appeal development is not out of character within this area or harmful to its appearance. The Council has made specific reference to the windows that face onto Barker Street however these break up the brickwork and add visual interest to the elevation in question.
9. For these reasons, I conclude the development has not caused harm to the character and appearance of the area. Consequently, there is no conflict with the objectives of Policy CS03 of the Leicester Core Strategy 2014 (CS) and Saved Policy PS10 of the City of Leicester Local Plan 2006 (LP), both of which seek to safeguard the character and appearance of the area.

Living conditions

10. The prevailing character of the area is formed by dwellings which have windows directly adjacent to the pavement. Whilst I note that in this instance the ground floor window would serve a bedroom, the privacy afforded would not be unusual in the context of the surrounding area, nor would it fail to provide appropriate living conditions for the occupiers of the annex.
11. The appellant and the Council disagree as to whether the 20181658 annex and the appeal annex would be the same height above the original garden level of the site. However, any increase in height arising as a result of the appeal scheme is minimal and, in my judgement, does not make a material difference to the impact upon No 42. The previously approved annex is a viable fallback position and I give it significant weight in reaching my decision.

12. With respect to 20181658, the Council considered the development in question to be acceptable in terms of its impact upon the amount of light reaching the rear garden of No 42. I find no reason to disagree with the Council's previous assessment in this regard and therefore, as the height of the appeal development is not materially different in relation to No 42, I conclude that the as-built annex has also not caused harm through a loss of light.
13. I note the representation received from the occupier of the adjacent dwelling which raises additional points relating to the development and its impact. I must however restrict my consideration of this appeal to the planning merits of the case and therefore, whilst I have had regard to the matters raised, I am unable to give them any significant weight in determining this appeal.
14. I conclude that the development would provide acceptable living conditions for its future occupiers and that it has not harmed the living conditions of the occupiers of No 42. The development therefore accords with the objectives of Policy PS10 of the LP, which seeks to protect living conditions. Policy H07 of the LP, whilst referring to living conditions, relates to flat conversions and new build flats, and is therefore not relevant to the appeal development.

Other Matters

15. The Council considers that the appeal development could be used as an independent dwelling and that this would raise further concerns about its relationship to the host dwelling. However, the plans submitted show that the planning unit would include the host dwelling and that the annex would lack facilities such as a kitchen. Furthermore, as the Council has suggested, a condition can be imposed to prevent the use of the building as an independent dwelling.
16. The Council has referred to drainage issues in its Officer Report but has subsequently confirmed its view that, as the area where the outbuilding was constructed was already hard surfaced, the development has not resulted in an increase in flood risk elsewhere. On that basis, I am satisfied that the development has not caused harm with regard to flood risk.

Conditions

17. As the development is not internally complete and in the interests of defining the terms of the permission, a condition requiring that the development be undertaken in accordance with the approved plans is required. A condition restricting the use of the building to occupation ancillary to the host dwelling is both reasonable and necessary, due to the nature of the development and its close proximity to the host dwelling. I have however reworded the Council's suggested condition to make it more precise.

Conclusion

18. For the reasons given above, I conclude that the appeal, subject to conditions, should be allowed.

Graham Wraight

INSPECTOR