



Appeal Decision

Site visit made on 12 November 2019

by Graham Wyatt BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28th November 2019

Appeal Ref: APP/W2465/D/19/3235561

109 Abbey Park Road, Leicester LE4 5AP

- 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 Hiten Patel against the decision of Leicester City Council.
 - The application Ref 20190927, dated 15 May 2019, was refused by notice dated 13 August 2019
 - The development proposed is described as a "proposed single storey front; side; rear extension; internal alterations; proposed drop kerb in the front; demolition of existing garage and replace with new one".
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the development on:
 - the character and appearance of the area;
 - the living conditions of adjoining occupiers with particular regard to light and privacy at 111 Abbey Park Road;
 - the living conditions of existing and future occupiers with particular regard to the provision of private amenity space; and,
 - highway safety.

Reasons

Character and Appearance

3. The appeal site forms a semi-detached, two storey property that is located on the corner of Abbey Park Road and Swithland Avenue. The appeal property has an existing single storey rear extension. The area has a pleasing sense of rhythm and a degree of uniformity and spaciousness which is reinforced by the similar layout and appearance of dwellings. The side garden area of the site contributes to the open character of the area, which is reflected in similar side and front garden spaces on corner plots in the area.
4. The proposed extension would be single storey and would protrude forward of the principal elevation of the property, in line with an existing bay window. The extension would effectively wrap around the ground floor of the dwelling, culminating at its boundary with the neighbouring property at 111 Abbey Park

- Road. A patio area would be provided abutting the extension with steps down to a rear yard area and then on to the single garage.
5. The development would extend to the side of the main dwelling leaving a small gap between the extension and the pavement filling almost the width of the plot. The result is to effectively bring the built development close to the pavement, thereby creating a large mass at ground floor level. The width and length of the proposed extension would dominate the building at ground floor level, eroding the openness at this part of Abbey Park Road and Swithland Avenue, which is further compounded by the lack of space about the building. This would be quite out of keeping with the prevailing spacious character of the area.
 6. Thus, the development would result in material harm to the character and appearance of the area. It would be in conflict with Policy CS03 of the Leicester City Council Core Strategy 2014 (the Core Strategy) and the National Planning Policy Framework (the Framework) which seek, amongst other things, to ensure that developments contribute positively to an area's character and appearance.

Living Conditions – Adjoining Occupiers

7. The proposed extension would be sited on the shared boundary with 111 Abbey Park Road, which itself has a conservatory on its rear elevation. The Council argue that the development would impact on the living conditions of the occupiers of No. 111 in that it would affect the light afforded to the conservatory as the extension would foul a 45 degree line taken from the centre of the conservatory.
8. I note that the amended plans submitted by the appellant include a 45 degree line to demonstrate that it would not be breached as a result of the development. However, the drawing in question¹ does not depict the entire rear elevation of No. 111, so I cannot be certain that the 45 degree line is taken from the centre of the conservatory. Moreover, given the depth of the proposed extension and its location close to the shared boundary, I am not persuaded that the light afforded to the conservatory would not be significantly affected by the proposed development. Furthermore, notwithstanding that the current occupier of No. 111 does not object to the proposed extension, given the close relationship between the two sites and taking a precautionary approach, the appellant has failed to demonstrate that the development would not result in material harm through loss of light to the conservatory at No. 111.
9. Turning to the raised patio area, the boundary at the appeal site is formed by a low wall that was quite easy to look over and into the garden area of No. 111. Thus, even without the proposed extension it is possible for mutual overlooking between rear garden areas to occur. I am not persuaded that the raised patio area of the development would exacerbate that situation to an unacceptable level.
10. Thus, although I acknowledge that the development would not result in significant levels of overlooking between properties that would result in material harm, I nonetheless find that the development would material affect the light afforded to the conservatory to the rear of No. 111. It would be in

¹ 2019/05/133/A

conflict with Policy PS10 of the Leicester City Council Local Plan 2006 (the Local Plan) and the Framework which seek, amongst other things, to ensure that developments protect the amenity of existing and proposed residents.

Living Conditions – Future Occupants

11. The Council's Residential Amenity Supplementary Planning Document 2008 (the SPD) states that for a townhouse, detached or semi-detached dwelling, 100 sq. m of private amenity space would be required. In this instance, the level of private amenity space to be provided following the proposed extension would be between 60 and 75 sq. m which the appellant describes as "*adequate for the property of this size*". Nevertheless, the proposed private amenity space, post development, would not meet the expectations of the SPD and would fail to provide an adequate area for a small family and children to use for play.
12. While I accept that the private amenity space would meet the appellant's family needs, the space provided may not meet the needs of future occupants of the dwelling. Although the appellant is disappointed by this position, there is nonetheless still a requirement to set minimum standards for areas of private amenity spaces to ensure that the needs of current and future occupiers are met. Furthermore, while the appellant states that there are examples of other developments in the vicinity that have very limited amenity space, this does not set an irresistible precedent to find in favour of a development that is otherwise harmful.
13. Thus, the development would fail to provide adequate private amenity space. It would be in conflict with Policy PS10 of the Local Plan, the SPD and the Framework which seek, amongst other things, to ensure that developments are provided with amenity space to reflect the type of household.

Highway Safety

14. The proposal seeks to lower the kerb to the front of the appeal site so that vehicles can access a parking area in front of the dwelling. The appeal site lies close to a busy road junction that is controlled by traffic lights. The Council's Highway Engineer raises concerns over the introduction of a dropped kerb at the appeal site on the grounds that occupants and visitors would have to reverse in and out of the parking areas.
15. At the time of my visit, works to Abbey Park Road were being undertaken which included works to the pavement to the front of the appeal site. I have not been made aware of what the works seek to achieve in terms of highway and pedestrian safety. Nevertheless, during my visit I also noted a number of parking areas along Abbey Park Road to the front of properties which require cars to reverse onto the road, some of which were on corner plots.
16. While the Council state that the dropped kerb would be "*undesirable*" and that the site is served by parking off Swithland Avenue, I am not persuaded that an access to the front of the site would cause significant harm to pedestrian or highway safety as it is a common form of access that can be found in urban areas. From my site visit it is apparent that the traffic lights at the junction stop traffic travelling east along Abbey Park Road for sufficient periods to enable a vehicle to access the site without representing a traffic hazard to other road users. Moreover, drivers would need to approach the site at very

low speeds as not to represent a hazard to other drivers or pedestrians. In addition, given the relatively small increase in vehicle movements as a result of the development, it is unlikely to translate into large numbers of vehicles waiting on Abbey Park Road to enter the appeal site.

17. Thus, the proposed dropped kerb would not result in an unacceptable impact on highway safety. It would not be in conflict with Policy AM01 of the Local Plan and the Framework which seek, amongst other things, that developments provide safe crossing facilities and do not have an unacceptable impact on the highway safety.

Other Matters

18. The property would be occupied by elderly persons, some of whom have mobility impairments whereby climbing stairs can be a struggle. Whilst I acknowledge the benefits that would result in respect of the proposed development, these are not sufficient to outweigh the harm that I have identified.
19. In support of the appeal, my attention was drawn to other properties in the area that are considered to have been extended in a similar manner to that proposed. However, these are very much in the minority and invariably, such cases will depend in their individual circumstances and so while noting these decisions, they are not determinative in this appeal. Moreover, the existence of development elsewhere does not represent an appropriate reason to find in favour of a proposal that would cause harm or lead me to alter my findings on this issue.
20. Reference has also been made to the potential to carry out elements of the scheme as 'permitted development'. However, whether or not planning permission is required for elements of the proposal is not a matter that is before me as part of this appeal, as other mechanisms exist to resolve such issues. Consequently, I have determined this appeal on its merits.

Conclusion

21. Although I have found that the proposed access into the site would be acceptable, the development would materially impact on the character and appearance of the area, would not provide sufficient private amenity space and would impact on the living conditions of adjoining occupiers. Thus, for the reasons given above, and having regard to the development plan when read as a whole, the appeal is dismissed.

Graham Wyatt

INSPECTOR