
Appeal Decision

Site visit made on 12 November 2019

by M Cryan BA(Hons) DipTP MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 December 2019

Appeal Ref: APP/N4720/D/3235580

42 Barnard Way, Crossgates, Leeds LS15 8UX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73A of the Town and Country Planning Act 1990 for the development of land carried out without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Reece Brown against the decision of Leeds City Council.
 - The application Ref 19/03408/FU, dated 23 May 2019, was refused by notice dated 8 August 2019.
 - The application sought planning permission for a two storey side extension without complying with a condition attached to planning permission Ref 18/03250/FU, dated 9 August 2018.
 - The condition in dispute is No 3 which states that: 'The external walling and roofing materials shall match those existing'.
 - The reason given for the condition is: 'In the interests of visual amenity'.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. On the basis that the permitted extension has been built in materials which do not match the host dwelling, the breach of Condition 3 has already commenced and section 73A of the 1990 Town and Country Planning Act applies. I have therefore dealt with the appeal on this basis.

Background and Main Issue

3. Following a 'selective review' the Council adopted a revised version of its 2014 Core Strategy in September 2019. I have determined the appeal having regard to the updated development plan and as Core Strategy Policy P10, which is referred to in the Council's decision notice, was unchanged by the review I am satisfied that no interested party has been prejudiced by this approach.
4. The appellant has constructed a side extension to the appeal property without complying with a condition imposed by the local planning authority. The disputed condition required the extension to be built of materials matching those of the host property. The appellant wishes to complete the development using different materials. The main issue is therefore whether Condition 3 is necessary and reasonable in respect of the character and appearance of the host dwelling and the wider area.

Reasons

5. The appeal property is a two-storey semi-detached house, built of pale yellow brick and with a pitched roof. Although it does not occupy a corner plot, as erroneously indicated in the Council's officer report, it is taller and on slightly higher ground than the neighbouring bungalow at No 40 Barnard Way, and this gives the building considerable prominence at the entrance to that part of the cul-de-sac. Barnard Way and the wider estate are of a pleasant suburban character, and although there is some variety of dwelling types there is also a broad consistency in design and materials, with houses and bungalows being constructed of red, orange or pale yellow brick.
6. Permission was granted in August 2019 for a two-storey extension to the host property, and a condition attached required it to be built of materials matching the existing dwelling. The gable wall has however been built of concrete blocks rather than matching bricks. The appellant wishes to render this wall, although this has not yet been done and it is currently unfinished concrete blocks. I saw very little use of render in the nearby surrounding area, where it appeared to be confined to a small number of outbuildings such as garages. The use of a rendered finish for the end gable of a dwelling would be therefore be alien to the otherwise consistent character of the area which stems in part from the dominant use of brick throughout the estate. The prominence of the extension at the entrance to that part of Barnard Way would add to its incongruous appearance if rendered, and this could not be overcome by the substitution of the disputed condition by one specifying a particular colour for the render.
7. The original planning permission for the estate removed certain permitted development rights for the erection of outbuildings and extensions. The appellant argues that the original permission and restrictive conditions are outdated, and that the permission granted for the extension has altered the conformity of the development. In my view however, the pleasant character and appearance of the estate may be attributable in part to the controls placed on development over the last 40 years.
8. Given the above, I conclude that the condition is reasonable and necessary to avoid causing harm to the character and appearance of the host dwelling and the wider area, which would be contrary to Policy P10 of the 2014 Leeds Core Strategy (as amended by the Core Strategy Selective Review 2019) and Saved Policies GP5 and BD6 of the 2006 Leeds Unitary Development Plan Review (UDPR). These policies require development to be appropriate to its location, and for extensions to respect the detailing and materials of the original building. The condition is also necessary with regard to the National Planning Policy Framework in respect of requiring good design.
9. I acknowledge that the appellant is likely to be disappointed with my decision, which if it were to result in a requirement to re-build the extension could result in a significant cost burden. It was open to the appellant to discuss with the Council the use of concrete blocks and render prior to proceeding with building the extension, including making a case about the lack of harm arising from the use of render, but he did not do so. My decision was not taken lightly, and followed a thorough appreciation of the character of the surrounding area as well as the other information before me.

Conclusion

10. For the reasons given above the appeal is dismissed.

M Cryan

Inspector