The Planning Inspectorate

Appeal Decision

Site visit made on 10 March 2020

by Beverley Wilders BA (Hons) PgDurp MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 March 2020

Appeal Ref: APP/W2465/D/20/3244168
15 Marjorie Street, Leicester LE4 5GY

- 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 Nikhil Calanchande against the decision of Leicester City Council.
- The application Ref 20191467, dated 2 August 2019, was refused by notice dated 26 November 2019.
- The development proposed is described as single storey rear extension to create disabled bedroom and w/c, conversion of loft space from storage to bedroom C3 alterations.

Decision

1. The appeal is dismissed insofar as it relates to the single storey rear extension to create disabled bedroom and w/c and is allowed insofar as it relates to the conversion of loft space from storage to bedroom and the installation of roof lights to front and rear of house at 15 Marjorie Street, Leicester LE4 5GY in accordance with the terms of the application, Ref 20191467, dated 2 August 2019, and subject to the following conditions:

   1) The development hereby permitted shall begin not later than three years from the date of this decision.

   2) The development hereby permitted shall be carried out in accordance with the following approved plans insofar as they relate to the conversion of loft space from storage to bedroom and the installation of roof lights to front and rear of house: Drawing Nos 001, 002, 003, 004, 005 and 006.

Procedural Matter

2. The description of development used in the heading above has been taken from the planning application form. However, in partly allowing the appeal and granting planning permission, in the interests of clarity I have amended the description slightly to reflect the wording used by the Council on its decision notice to make reference to the proposed roof lights.

Main Issues

3. The main issues are:

- the effect of the proposed rear extension on the living conditions of the occupiers of 17 Marjorie Street having particular regard to outlook, daylight and sunlight and privacy;
- whether the resultant host property would have an adequate amount of external amenity space.

Reasons

Living conditions

4. The appeal site comprises a two storey, mid terraced dwelling located within a row of similar dwellings. The host property has a two storey rear outrigger with a small single storey lean to beyond it, located within a modest sized rear yard area. The adjacent property at 17 Marjorie Street has a similar sized rear yard area with the common side boundary between it and the host property being marked by a low level brick wall.

5. The proposed rear extension would replace the small single storey lean to and would extend around 7 metres from the rear outrigger towards the rear boundary of the site, leaving only a small gap to the rear boundary. In addition, the extension would be deeper and higher than the existing lean to and it would contain a door and two windows facing towards the rear yard of No 17. It is stated that the extension is required for and would be occupied by an elderly relative of the appellant who has particular medical needs and the windows would serve a bedroom and a bathroom.

6. The extension would be located very close to the common side boundary with No 17 and would result in built development across almost the entire length of the modest sized rear yard area. Its position and length together with the modest size of the rear yard at No 17 means that the extension would have an overbearing effect on the neighbouring rear yard area. In addition, the position of the proposed bedroom window relative to No 17 means that the proposal would also result in a significant loss of privacy to users of the rear yard of that property. Whilst I note that the appellant would be willing to obscurely glaze the bedroom window to prevent any overlooking, I consider that this would have the effect of creating unsatisfactory living conditions within the extension itself.

7. I note that the extension would be positioned to the east of No 17. However, I do not consider that it would result in any significant overshadowing of No 17 having regard to the scale and height of the extension relative to the existing development at 13 Marjorie Street, against which the extension would be constructed and the relative orientation of the appeal site and No 17.

8. My attention has been drawn by the appellant to the fact that a prior notification was made to the Council for a single storey rear extension and that the Council issued a decision in August 2019 that prior approval was not required (Ref 20191386). The prior notification extension is smaller than that proposed with a shorter length of 6 metres, a reduced depth of 2.4 metres but is taller with an eaves height of 2.9 metres and a maximum height of 3.9 metres. The appellant states that there are no restrictions in relation to what windows could be constructed within the extension.

9. Although the prior notification extension is similar in scale to the proposal, the proposed extension would be longer and would be nearer to the common

boundary with No 17. Though the notification extension would be slightly taller, having regard to the overall scale of the proposal, I consider that it would be more overbearing. In addition, the windows within it would be nearer to the yard area of No 17 and whilst I note the appellant's comments regarding a lack of control over the insertion of windows in the prior notification extension, there is no evidence to suggest that it is likely that more windows than the two proposed would be inserted within it, particularly given its reduced length. I therefore conclude that the proposal would have a more harmful effect than the "fallback" extension. The fact that no objections were received from the occupiers of No 17 is not a sufficient reason in itself to justify the grant of planning permission where harm has been identified.

10. Taking the above matters into consideration, I conclude that the proposal would have a significant adverse effect on the living conditions of the occupiers of 17 Marjorie Street having particular regard to outlook and privacy. The proposal is therefore contrary to saved Policy PS10 of the City of Leicester Local Plan adopted January 2006 (LP), Policy CS03 of Leicester City Core Strategy adopted July 2014 (CS), guidance within paragraph 127 of the National Planning Policy Framework (the Framework) and within the Council's Supplementary Planning Document Residential Amenity adopted: February 2008 (SPD). These policies and this guidance seek, amongst other things, development to have regard to its setting and context and to the amenity of existing and proposed residents.

Amenity space

11. As stated, the host property has a modest sized rear yard area, with other nearby properties having similar rear yard areas. The proposed extension would result in a significant reduction in the size of yard area, leaving only a narrow strip between the side elevation of the extension and the common side boundary with the neighbouring property.

12. The appellant states that the Council's SPD advises that no more than 50% of the rear yard or garden of a residential property should be covered by extensions and acknowledges that the proposal would be in breach of the SPD guidance. However, reference is made to the "fallback" extension and to the fact that it would also reduce the size of the rear yard area.

13. As stated above, the "fallback" extension is smaller than the proposal and having regard to the appellant's own figures would result in 4 square metres more of resultant amenity space. Although not a large area, it would be significant in the context of the modest size of the yard area and consequently I consider that the proposal would result in an inadequate amount of external amenity area which would be materially smaller than that which would result from the "fallback" extension.

14. Taking the above matters into consideration, I conclude that the resultant host property would not have an adequate amount of external amenity space. The proposal is therefore contrary to guidance contained within the SPD which seeks, amongst other things, to ensure that residential development has adequate private amenity space. Although LP Policy PS10 was referred to in the reason for refusal relating to rear yard space, this does not refer to external amenity space and does not therefore appear to be relevant to this issue.

Other Matters

15. In reaching my decision I have had regard to the appellant's personal circumstances and to the fact that the proposed extension would be for his elderly relative with particular medical needs. However, the needs of the appellant and the benefits of the proposal do not outweigh the harm that would result from it. Moreover, it has not been demonstrated that the appellant's needs could not be met by the "fallback" extension which would be less harmful.

16. My attention has been drawn by the appellant to two other sites where the Council has granted planning permission for rear extensions. However, having regard to the submitted information, it does not appear that either site is directly comparable to the proposal before me including that they are for smaller extensions. In addition, I am not aware of the full details of the proposals and in any event, I must determine the proposal before me on its own merits.

17. The proposal also includes the conversion of the existing loft space to bedroom accommodation including the insertion of a number of rooflights. Though I note the appellant's position that the works do not require planning permission, they nevertheless form part of the proposal before me. I note that the Council has no objections to this aspect of the proposal and I see no reason to disagree with its findings on this issue.

Conditions

18. I have had regard to the conditions suggested by the Council. I have imposed a condition specifying the approved plans for clarity and certainty, particularly as the permission only relates to the loft conversion aspect of the proposal. I have not imposed the suggested conditions relating to materials and to finished floor levels as these relate to the proposed extension which is not being granted permission.

Conclusion

19. For the above reasons and having regard to all matters raised, I conclude that the appeal should be dismissed insofar as it relates to the single storey rear extension to create disabled bedroom and w/c and should be allowed insofar as it relates to the conversion of loft space from storage to bedroom and the installation of roof lights to front and rear of house.

Beverley Wilders

INSPECTOR