



Appeal Decision

Site visit made on 10 September 2020

by M Seaton DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 November 2020

Appeal Ref: APP/X4725/D/20/3252099

90 Thornleigh Avenue, Wakefield, WF2 7SF

- 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 Zye Aksar against the decision of City of Wakefield Metropolitan District Council.
 - The application Ref 19/02618/FUL, dated 22 November 2019, was refused by notice dated 31 January 2020.
 - The development is the formation of a through car port, first floor side/rear extension, dormers and single storey extension to rear.
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Procedural Matter

1. I have noted there to be a degree of inconsistency in the spelling of the appellant's first name between the Planning Application Form and the Grounds of Appeal Form. However, correspondence received with the appeal has clarified that the correct spelling is as set out on the Grounds of Appeal, and I therefore have referred to this version above.

Decision

2. The appeal is allowed and planning permission is granted for the formation of a through car port, first floor side/rear extension, dormers and single storey extension to rear at 90 Thornleigh Avenue, Wakefield, WF2 7SF in accordance with the terms of the application Ref 19/02618/FUL dated 22 November 2019, and subject to the following conditions:
 1. The development hereby permitted shall be in accordance with the following approved plans: Proposed Plans & Proposed Elevations (received by the Council on 22 November 2019).
 2. Notwithstanding the provisions of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any Order revoking or re-enacting that Order) no doors, windows or any other openings shall be created in the north and south side elevations of the extensions and dormers hereby approved.
 3. The roof area of the single storey rear extension hereby approved shall not be used as a balcony, roof garden, terrace or similar amenity area at any time throughout the lifetime of the development.

Main Issues

3. The main issues are;

- the effect of the development on the character and appearance of the dwelling and the area; and,
- whether the personal circumstances of the appellant outweigh any harm in respect of the development.

Reasons

4. The appeal site is situated within a residential street and is occupied by a two-storey dwelling which has been previously extended by virtue of planning permission (*LPA Ref: 16/01984/FUL*) granted approval in October 2016, for a two storey side extension with a car port on the ground floor, as well as a first floor extension to the rear and a conservatory. At the time of my visit works to form extensions appeared to have been completed with the accommodation in use.
5. My attention has been drawn to the conclusions of an Inspector in a previous dismissed appeal decision (*Appeal Ref: APP/X4725/D/19/3226664*) for the site following the refusal of planning permission by the Council (*LPA Ref: 18/02772/FUL*) in March 2019 for the formation of a through car port, first floor side/rear extension, dormers and conservatory to rear (part retrospective). This appeal decision is an important material consideration.
6. In the March 2019 appeal decision the Inspector concluded that, in addition to concerns over the impact on the living conditions of the neighbouring occupiers of No. 92 Thornleigh Avenue, the cumulative impact of the development as proposed dominated the original character and appearance of the dwelling. Furthermore, the design and use of materials for the dormer windows was concluded to represent an incongruous addition in the absence of the use of similar materials or other dormers on the rear elevations of nearby properties.
7. On the basis of the submissions, the current appeal scheme has been amended from the 2019 appeal scheme. The reduction in the depth of the first-floor side extension to the rear adjacent to the boundary of No. 92 Thornleigh Avenue has addressed the issues of residential amenity to the satisfaction of the Council. I also accept that this revision from the previous scheme has provided some architectural and visual relief to the cumulative bulk of the extensions, although the overall extent of the reduced scheme does not fully address the previously expressed concerns which I would concur with regarding the cumulative impact of the works and the adverse impact of the extensions on the overall character and appearance of the original dwelling.
8. Turning to the dormer windows, I recognise that their positioning set in from the side of the roof in line with openings below, incorporation of pitched roofs, and use of dark grey materials to match those utilised on other openings on the dwelling would accord with certain aspects of the guidance set out within the Wakefield District Residential Design Guide Supplementary Planning Document Part 2: Guidance for Householders 2018 (RDG).
9. Whilst the dormer windows would benefit from a general lack of visibility from the street, the structures do appear as relatively incongruous additions to the rear roofscape of the property in the context of the existing terrace and the absence of other roof alterations. However, I do not find the use of grey uPVC cladding panels to be visually harmful in the context of the fenestration details of the existing property, where the colour co-ordinates throughout the

dwelling, or within the wider area in contrast to the use of materials on other observed dormer windows.

10. I have noted the appellant's contention that the dormer windows could be constructed as permitted development but this claim is not supported by any compelling evidence or proper analysis, and in any event is disputed by the Council. Nevertheless, whether or not this may be the case is not a matter which is formally before me for determination under this Section 78 appeal, and I do not therefore attach any significant weight in support of this aspect of the development as a consequence.
11. For these reasons, I conclude that despite the improvements and alterations from the previous scheme, the development continues to have an adverse effect on the character and appearance of the dwelling and the area. The proposal would conflict with Policy CS10 of the Wakefield Core Strategy 2009, Policy D9 of the Wakefield Development Policies 2009, and the guidance set out in the RDG. These policies and guidance seek to ensure that development is of a high quality of design appropriate to their location in terms of design, scale, massing, materials and colour and protect and enhance local character and distinctiveness, with changes to the height, rhythm or form of consistent roofscapes not usually acceptable.

Personal circumstances

12. In determining this appeal, I have had due regard to the Public Sector Equality Duty (PSED) contained in section 149 of the Equality Act 2010, which sets out the need to eliminate unlawful discrimination, harassment and victimisation, and to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it. Disability is a relevant protected characteristic to which the PSED applies.
13. Several letters of support have made reference to the appellant as seeking to provide additional accommodation to address the needs of a growing family and a disabled family member. Further to this correspondence, the appellant has made an additional submission to explain the familial circumstances which have led to the need for additional accommodation and has included a letter confirming aspects of the medical issues pertinent to the case from the local NHS Trust.
14. I have carefully considered the submissions in respect of the specific needs of the appellant's family and I recognise the importance that the development and the increased floorspace plays in meeting these needs. Furthermore, it is difficult to visualise how these needs might be addressed satisfactorily at the appeal site without presenting a significant compromise in the living arrangements of the family to the detriment of the individual, or without resulting in more significant impacts from an alternative quantum or form of development.
15. For these reasons, I attach significant weight to the need to address the specific circumstances as presented in this instance in accordance with the PSED, and which must therefore weigh in support of the development.

Other Matters

16. I have noted the continued concerns raised by the neighbouring occupier of No. 92 Thornleigh Avenue related to the impact of the development on living

conditions. However, whilst I accept that there would be some impact on the residential amenity of the neighbouring occupiers from the rear and side extension, I am satisfied that the reduction in depth of the extension would result in an amenity relationship which would not lead to an unacceptable impact on living conditions.

Conditions

17. In addition to a standard condition regarding development being completed in accordance with the approved plans, I am satisfied that the removal of permitted development rights for additional windows in the north and south elevations of the extensions would be justified in the interests of safeguarding the living conditions of neighbouring occupiers. Similarly, a condition restricting the use of the flat roof of the extension as a balcony, roof terrace or similar, would also be necessary for the same reason.

Conclusion

18. Despite revisions to the scheme from previous development proposals on the appeal site, the development continues to result in an adverse impact on the character and appearance of the area. However, I am satisfied that the impact of dismissing the appeal would have a disproportionate impact on the individual with a protected characteristic in this instance. As a consequence, the needs highlighted under the PSED outweigh the harm identified to the character and appearance of the dwelling and the area, and the stated conflict with the Development Plan and other material considerations.
19. For the above reasons, and subject to the conditions as listed, the appeal is allowed.

Martin Seaton

INSPECTOR